City of Wheeler

Chapter 2

WATER/SEWER/STREET
The CITY OF WHELEH ordains:

ARTICLE 1. INTRODUCTION PROVISIONS

Section 1.010 Purpose: The purpose of this ordinance is to set policies and regulations to facilitate future improvements and the orderly expansion of the holding, treatment and distribution system; to direct the responsibility for the operation and maintenance of the system; and in general to promote the public health, safety, convenience and general welfare.

Section 1.020 Operation and Maintenance: The City Water Department, under the supervision of the Superintendent of Public Works, shall have the responsibility for the operation and maintenance of the water system as well as for keeping adequate records and for the submission of all reports that are required by the Federal Environmental Protection Agency, the Oregon State Health Division, or any other governmental agency.

Section 1.030 Definitions:

(1) "Adequate": A domestic or municipal water supply source and distribution system, sufficient in capability to supply all peak daily demands and instantaneous demands during periods of maximum use, without reduction in pressure, except during an emergency.

(2) "Approval" or "Approved": Approved in writing.

(3) "Backflow": The flow of water or other fluid substance or mixture thereof into the domestic water supply system from any source other than the intended source of water supply.

(4) "Check Valve": A valve which allows flow in only one direction. It must be carefully machined to have free moving parts and assured water tightness and seat readily and completely. The face of the closure element and valve seat must be molded synthetic rubber, composition, or other non-corrodible material which will seat tightly under all prevailing conditions of field use. Pins and bushings shall be of bronze or other non-corrodible, non-sticking materials, machined for easy, dependable operation. The closure element shall be internally loaded to promote rapid and positive closure in all sizes where this feature is obtainable.

(5) "Chlorine Residual": The amount of chlorine remaining in the distribution system after the water has been treated with chlorine.

(6) "Chlorine Treatment": A process to disinfect water by treating it with chlorine.

(7) "Commercial Service": The plumbed location at which a customer of the City's Water Department carries on his activities of gaining a livelihood or performing a public service, as distinguished from his residence, and such activity may be a business, industrial, professional, or public nature.

(8) "Contaminate": Any physical, chemical, biological or radiological substance or matter in the water.
2.10-1.030(9)

(9) "City Council": The elected Council of the City of Wheeler. The Council may delegate authority given under the provisions of this ordinance.

(10) "Customer": Shall mean any person, firm or corporation purchasing and using water and water service supplied by the City of Wheeler Water Department.

(11) "Disinfected": To have been cleaned with a chemical agent that destroys bacteria.

(12) "Distribution System": Includes but is not limited to distribution mains, pipelines, pumping stations, pressure pumps, pressure tanks, valves, and other auxiliary equipment used to transmit water from a domestic or municipal supply source to the prospective user's service line.

(13) "Emergency": The result of any natural element or mechanical failure which is unpredictable and temporary or infrequent, and which causes a domestic water supply source or distribution system to be temporarily less than adequate.

(14) "Final Plans": Approved tentative plans, along with modifications, alterations, or required revisions, as constructed.

(15) "Incomplete Plans": Plans that are lacking enough information to conclude what might be the intent or capabilities of the design.

(16) "Maximum Contaminant Level": The maximum permissible level of a contaminant in the water.

(17) "Meter Box": A concrete or plastic box in which a water meter with its fittings are housed after the installation of a water service line for a customer.

(18) "Person": Any individual, corporation, association, firm, partnership, or joint stock company and includes any receiver, trustee, assigns, or other similar representative thereof.

(19) "Potable Water": Water which is sufficiently free from biological, chemical, physical or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects, and which has such other physical properties so as to be palatable to humans for drinking purposes.

(20) "Public Health Hazard": A condition whereby there are sufficient types and amounts of biological, chemical, or physical, including radiological, agents relating to water or sewage which are likely to cause human illness, disorders or disabilities. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals, or radioactive isotopes.

(21) "Residential Service": The plumbed dwelling of a household and/or his family, who is a customer of the City's Water Department, which may be an individual residence, cabin, mobile home, condominium apartment, or a similar use.

(22) "Reservoir": A facility for storage of potable water.
"Service Connection": That portion of the service line which extends from the main in the street to the curb or property line.

"Service Line": The connection between the distribution system and the customer's system which is subject to the plumbing code.

"Tentative Plans": Designs, specifications, materials and locations proposed for construction.

"Turbidity": Opaque or muddy with particles of extraneous matter.

ARTICLE 2. STANDARDS

Section 2.010 Water Quality Standards:

(1) The water quality standards apply to water leaving the source facilities and to water entering the user's service line.

(2) The City Water Department shall have a routine chemical sampling of finished water collected and analyzed for each source at such time as to represent conditions of average water quality for a surface source before July 1st of each year.

(3) The City Water Department shall have a daily sample of finished water collected and analyzed for turbidity from each source where turbidity contamination may be present. One turbidity unit (TU), as determined by a monthly average is the maximum contamination level for turbidity.

In the event that analysis indicates that any physical quality limit has been exceeded, the sampling and analysis shall be repeated promptly; the results of the two measurements shall be averaged, and recorded.

The City Water Department may require that additional physical quality sampling and analysis be performed when it is known or suspected that substandard water quality has occurred in the distribution system.

(4) The City Water Department shall have microbiological samples collected at points which are representative of the conditions within the distribution system or points of water use. The samples shall be collected at regular intervals and in numbers proportionate to the population served by the water system. In no case shall the frequency be less than one sample per month from each source.

(5) Whenever the maximum contaminate levels for coliform are exceeded, resampling from the same point shall be initiated until the results obtained from at least two consecutive samples show the absence of coliform organisms. The location at which the special resamples are taken shall not be eliminated from future sampling because of a history of questionable water quality. Resamples required by this section shall not be included in calculating the total number of samples routinely collected each month to meet the sampling frequency requirements.

(6) Microbiological water samples shall be analyzed by a laboratory approved by the Environmental Protection Agency.

(7) The City Water Department shall submit a summary of the analytical reports to the Environmental Protection Agency and the State Health Division by
2.10-2.010(8) the 10th day of the following month. When water quality is or may be substandard, the City Water Department may notify those persons likely to be served of the deficiencies and advise them of steps they may take to avoid damage to their health and property.

(8) The City Water Department shall take any and all additional steps necessary to insure compliance with state and federal water quality standards.

Section 2.020 Construction Standards:

(1) All facilities in contact with potable water shall be clean, flushed free of contamination and disinfected prior to use. It shall be unlawful to use any pipe, tanks, valves and equipment in potable water systems which is not new or previously used only in approved potable water systems.

(2) All water system facilities shall be constructed to reliably exclude contamination and withstand imposed physical stresses.

(3) Appropriate provisions shall be made for operator access for maintenance and safety.

(4) Chlorination treatment shall (with the use of an appropriate metering device if the water flow is or may be variable) be proportionate to the flow. The addition of chlorine to water for disinfection shall be sufficient to provide a 0.2 mg/l free available chlorine residual for 30 minutes contact time or a 2.0 mg/l combined available chlorine residual for 180 minutes' contact time before delivery to the first user. Provisions shall be made for sampling the water prior to and after chlorination.

(5) Where possible, water pipelines shall be located at 10 feet horizontally from sanitary sewer pipelines, and crossings shall be made at approximately 90° with a minimum vertical clearance of 18 inches under the water pipeline. Crossings over sewer force mains or where less than 18 inches clearance is available shall be made using full length galvanized steel, cast or ductile iron water pipe centered on the crossing. Where the 10 feet or 18 inch clearances cannot be obtained, the City Water Department may approve, depending upon soil conditions, maximum ground water table, and condition of the water and sewer pipelines, less separation. When a water pipeline must cross below a sewer pipeline, the sewer pipeline and water pipeline shall be cast iron, ductile iron, galvanized or protected steel or other approved construction which extends 10 feet each way from the crossing.

(6) Pipelines shall be carefully bedded and fully supported in material free from rocks or other rigid objects. Minimum cover shall be 30 inches. Backfill material shall be free of rocks or objects that may cause excessive stress in the pipe. Thrust blocks shall be concrete poured in place against undisturbed material with sufficient bearing to withstand test pressures and peak system pressures.

(7) Tentative plans shall be submitted to the City Water Department for all major water supply construction. These plans and specifications shall set forth the following:

(a) Sufficient detail to completely and clearly illustrate what is to be constructed. These plans and specifications shall be provided where required for clarity.
(b) Facilities which meet the construction standards and yield
potable water.

(c) Facilities which meet the construction standards and supply
adequate water.

(d) Vicinity map of the proposed project relative to the existing
system or established landmarks.

Plans shall be on standard size drafting sheets and drawn to scale.
Incomplete plans will not be considered tentative plans and may be returned.

(8) The City Water Department shall either approve submitted tentative plans
for public water supply systems, as originally submitted, or shall propose
modifications within 21 days of submission.

(9) Tentative plans amended to include modifications pursuant to the City
Water Department's requests and resubmitted shall be considered approved
upon resubmission and approval.

(10) Within 10 days after resubmission of the modified tentative plans pursuant
to subsection (9) of this section, the City Water Department shall issue
a written statement of approval of the tentative plans.

(11) Final plans shall accurately and completely illustrate and describe the
completed system. Such plans shall be submitted to and approved by the
City Water Department before any water is made available using the system.
Where a significant change is found from tentative plans which have been
approved, the tentative plans must be revised and resubmitted to the City
Water Department for approval. Submission of final plans shall be
interpreted as meaning the work has been completed in accordance with
applicable law, rules and the approved tentative plans, and the engineer
shall certify the final plans as being complete and accurate.

(12) Approval of final plans shall not be required prior to use of water from
a system being replaced where the existing users would be without water
while the final plans would be prepared, submitted to and reviewed by
the City Water Department. The replaced system must, however, yield water
safe for consumption prior to use.

Section 2.030 Minimum Pipe Size Standards:

(1) All pipe must meet City approval.

ARTICLE 3. OPERATION AND MAINTENANCE OF THE WATER SYSTEM

Section 3.010 Operation and Maintenance: The water system shall be operated and
maintained in a manner that will continuously assure production and delivery of
adequate and potable water. To assure this:

(1) All phases and components of the system shall operate effectively in the
manner designed.

(2) Leaks and broken or malfunctioning equipment shall be promptly repaired
or replaced.

(3) Proper equipment, tools, and parts shall be readily available and in good
condition to make repairs. When possible, notice shall be given to users
of impending work that will affect the quality or continuity of their
service. All work must meet the construction standards and comply with disinfection requirements.

Section 3.020 Personnel:

(1) Personnel responsible for operation and maintenance of the system shall be fully aware of the function of the particular facilities for which they are responsible and at all times shall make every effort to assure a continuous delivery of safe, potable, adequate water to each and every user.

(2) Attendance in special training programs and/or operator certification is recommended for all personnel.

Section 3.030 Service Interruption: The City may interrupt service for repairing mains, making extensions, or other reasons necessary for proper operation and maintenance of the system. The City shall not be responsible for any damages caused by such interruptions of service or fluctuations in pressure, but shall, when possible, give customers advance notice when it is known that service is to be interrupted for any appreciable length of time.

Section 3.040 Records: The City Water Department shall maintain plans, maps and records to aid in planning, construction, operation and maintenance, coping with emergencies and meeting quality requirements. The following shall be kept current:

(1) A complete and current set of "as-built" plans and specifications of the entire system plus other maps, easements, rights of ways, etc., as are necessary for proper operation and maintenance.

(2) A current operations manual or manuals covering each phase as well as general operation of the system.

(3) A copy of the latest master plan or revised master plan.

(4) A current set of service connection records showing type and location.

(5) Current use records and cumulative totals to compare with production records and capacities of the system and capabilities of the source.

(6) A current record of all chemicals (with dosage rates and related data) used in the treatment plant or in the system.

(7) A record of maintenance work performed under the ongoing maintenance program.

The following shall be kept current by the City Water Department and be submitted to the appropriate agencies as required by federal and state laws and these rules:

(1) A record of all bacteriological reports.

(2) Monthly chlorination reports.

(3) A record of chemical analysis.

(4) A record of physical quality analysis, including turbidity readings.

(5) Such other records as necessary or required by federal and state laws and administrative rules.
Water quality sampling shall be done according to City Water Department, Federal, and State rules:

(1) When a bacteriological sample does not meet the standards, the City Water Department shall make a survey to attempt to determine the source of the contamination. Corrective action indicated by the survey shall be taken promptly, and a report of the same put on file. A resample shall be taken promptly from the same sampling point and this process continued until two consecutive acceptable samples are obtained.

(2) A chemical analysis shall be performed as prescribed in Section 2.010 (2) of these rules and records shall be kept as required in subsection (3) above.

(3) Turbidity analysis shall be performed on samples from each point where finished water enters the system as required in Section 2.010 (3). Results of turbidity readings shall be kept on record as required in subsection (4) above.

Chlorination practices and use of other chemicals: The operation and maintenance of chlorination and/or other chemical use equipment shall be in accordance with the manufacturer's recommendations and shall be such as to continuously produce water in accordance with City Water Department, Federal, and State treatment standards.

It shall be the duty of the owner of the property served to keep backflow protective devices in good working condition at all times. It shall be the duty of the owner of the property at any premises where backflow protective devices are installed to have thorough inspections and leakage tests made at least once a year or more often in those instances where successive inspections indicate failure. These devices shall be repaired, overhauled or replaced at the expense of the owner of the property they whenever they are found to be defective. Records of such tests, repairs and overhauls shall be kept by the City Water Department.

Section 3.050 Service Connections: No service connection shall be made to the City Water System, without the property owner first having made application for water service to the City Recorder, and a minimum of 24 hours notice having been given to the City Water Department.

No service shall be initiated until the connection fee has been paid. For individual service, the connection fee shall accompany the service application. There shall be no "part time or seasonal service."

Section 3.060 Service Line Check Valve: With the construction of a new service line or the rehabilitation of an old service line, it shall be the policy of the City Water Department to withhold service beyond the meter box unless an approved check valve has been installed in the property owner's service line. The property owner shall install the check valve at his or her expense. A check valve is necessary to prevent a siphon action from the building plumbing system which may be brought on by line breakage or by action of the City Water Department. A check valve will also help prevent the syphoning of contaminated water into the water system.

Section 3.070 Separation of Services: In the construction or rehabilitation of buildings with multi-purpose use or multiple dwelling units, each unit shall be served independently of the other units, but any present apartment complex, hotel, motel, or other commercial service now being served by one service line, may continue to be served in this manner at the option of the City Water Department, on either a flat rate or a metered basis. The owner of the establishment applying for such service shall be responsible for the total charges for the service rendered, as determined from the applicable filed commercial flat rate or metered rate schedule.
Section 3.080 Meter Boxes: Meter boxes shall be installed with every new service or with the rehabilitation of an old service. The meter box shall be located between the curbline and the property line whenever possible. Meter boxes shall be installed so they are easily accessible, and shall be protected from frost.

Section 3.090 Meters Required: All premises now served by the City Water Department shall be equipped with an adequate water meter, furnished and installed by the City Water Department; provided that such water service may be supplied by the City at a flat rate of charge until such meter may be installed.

Before any new premises are occupied, a water meter shall be installed by the City Water Department, but shall be paid for by the consumer after application is made for such water service at the flat rate of charge until the meter can be installed.

Section 3.100 Plumbing: Water from a service line shall not be turned into a building plumbing system which does not comply with the Oregon State Plumbing Code. Water may be turned on for construction work in an unfinished building or at a construction site before any plumbing is installed, provided the contractor makes application therefore, and pays the flat rate user charge prescribed by the applicable rate schedule.

Water on flat rates will not be furnished where there are defective or leaking faucets, toilets, or other fixtures, or where there are toilets or urinals without self-closing valves, or toilets without self-acting float valves.

Customers will keep all pipes and fixtures of the customers lines in repair at their own expense and will be held liable for any leakage and all damages which may result from their failure to do so. When leaks are detected the customer will be notified and, if necessary repairs are not made in a reasonable time, the water may be shut off and not turned on again until the repairs are made.

Section 3.110 Repairs: The City Water Department shall make or supervise all repairs to the City Water System, this responsibility ends at the meter box. Repairs beyond the meter box shall be the responsibility of the property owner. The City may, in an emergency, repair pipes between the meter box and the building being served. The cost of such repairs shall be charged to the owner of the premises served.

No person unless authorized by the City Water Department shall in any manner tamper with, connect, disconnect, repair, or otherwise disturb any water meter after same has been installed. The customer shall be responsible, that the meter remains free from obstructions for the purpose of reading, inspection or repair.

Should damage result to metering equipment from actions or willful neglect of the customer, the City will repair or replace such equipment and shall bill the customer for the costs incurred.

Section 3.120 Access to Premises: Agents of the City Water Department may have access at reasonable hours of the day to parts of the customer's building and premises in which water may be delivered from the City Water System, for the purpose of installing, inspecting, repairing, or removing any or all of its equipment used in connection with metering the water service.

Section 3.130 Authority of the City: All parts of the City Water System through which water is served, except pipes beyond the meter box, are under the exclusive control of the City Water Department. The Water Department has the right to limit or restrict the use of water. All water of the City of Wheeler is for the exclusive use of the citizens and residents of the City of Wheeler first. If water should be served outside the City limits, it shall be surplus water only.
ARTICLE 4. ADMINISTRATIVE

Section 4.010 Application for Service: Application for water service, including turn on, transfer of account, and new service connection, must be made in writing to the City Recorder and shall contain an agreement by the applicant to abide by and accept all of the provisions of this ordinance as conditions governing the use of the City Water System by the applicant.

Section 4.020 Responsibility of Payment of Bills: The property owner of record shall be responsible for payment of all charges for service. The City shall submit billings for all user fees and charges to the property owner.

Section 4.030 Rates: All property upon which any building has been or may hereafter be erected having a connection with any water supply line, which is or may be hereafter constructed, placed or used in connection with the City Water System, shall pay a regular rate according to a schedule adopted by the City Council. This shall list all service connection charges and user rates, and shall be by resolution to enable its revision by the City Council to provide a current rate sufficient to meet the expense and obligations of the City Water Department. A current copy of such rate schedule shall be kept by the City Recorder, and shall be open to public inspection.

Section 4.040 Billings: Billings for water use shall be dated and sent out at such time as may be directed by the City Council.

Section 4.050 Separate Billings: All commercial services shall be billed independently from any residential service, with the exception of motels and apartment houses.

Section 4.060 Meter Readings: The City Water Department shall read or cause to be read every water meter used in the City at such time as may be directed by the City Council.

Section 4.070 Service Termination or Change of Occupancy: Customers vacating a premise where water service is provided must notify the City. The Water Department will render a final bill promptly, based on the applicable rate schedule, either flat rate or metered rate after making a final meter reading. A final bill will be due at once. Billing for portions of months will be prorated for actual days of use. There will be a charge to cover the cost of turning water off or on.

Section 4.080 Delinquent Accounts:

(1) A water account is delinquent if it is not paid on or before the tenth (10) day following the date of the mailing or presentation of a statement of account.

(2) A reminder of account delinquent notice may be sent to each delinquent account on or about thirty (30) days after the account becomes delinquent.

(3) Ninety (90) days after an account becomes delinquent, a turnoff notice shall be sent to each account which is delinquent. That notice shall specify that water service shall be turned off on a specified date if the delinquent account is not paid in full.

(4) On the turnoff date, the meter reader or other agent of the City Water Department shall deliver a written notice to the customer stating that water service is being turned off until all delinquent charges have
2.10-4.080(5)  The meter reader or other agent of the City Water Department shall immediately thereafter turn off the service and padlock it.

(5) A delivery to any person residing at the address served by the service connection shall be considered a delivery to the customer. If there is no person present at the address served, then a notice may be left on the premises stating that the water service will be turned off on the following morning. If delinquent charges have not been paid by the following morning, a meter reader or other agent of the City Water Department shall return to the premises, shut off the water service, and leave a notice that the water has been turned off until all delinquent charges have been paid.

(6) In all instances where water services have been turned off because of delinquent charges, the amount of the delinquent charges plus a $15.00 service charge for the restoration of service must be paid to the City Recorder, and not to the meter reader or other agent of the City Water Department.

(7) The City Recorder, in cases of extreme hardship, shall have the discretion of renewing service to delinquent accounts upon receipt of a plan for the payment of the back-due charges in installments.

(8) If there has been no change of ownership and an account becomes delinquent at premises where prior delinquency has occurred within the preceding two (2) years, then an immediate turnoff notice as provided in subsection (3) above, shall be sent, and notice may be immediately enforced as provided for in subsection (4) above.

Section 4.090 Water Charges Lien: Charges for water shall be a lien upon the premises as provided by State Statute. Whenever a bill for water service remains unpaid for ninety (90) days after it has been rendered, the City Recorder may file with the Clerk of Tillamook County a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the City claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.

If the customer of water whose bill is unpaid is not the owner of the premises, and the City Recorder has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the Recorder, whenever such bill remains unpaid for a period of ninety (90) days after it has been rendered.

The failure of the owner to receive such notice shall not affect the right to foreclosure of the lien for unpaid water charges. The lien thereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided for by law or City Ordinance.

Section 4.400 Meter Testing: Any City meter shall be taken out and tested upon complaint of the customer, upon payment of a fee of twenty-five ($25.00) dollars. If upon testing, the meter is not within three (3) percent of be accurate, it shall be repaired or replaced and the $25.00 returned. Whenever a meter is found to over register more than three (3) percent, and adjustment in a reasonable amount will be made to the customer for past billings, based on prior use, but in no case will an adjustment period exceed ninety (90) days.

Section 4.110 Waterline Extensions: Application for main extensions and lateral extensions, which shall include the installation of fire hydrants where necessary, shall be in writing and accompanied by two (2) copies of an adequate map showing the properties to be served by the proposed extension. All such extensions shall be made.
by the City Water Department, or by a contractor approved by the City, and to the specifications of the City Water Department. All materials used must be approved by the City Water Department and the extension will become a part of the City Water System. Where extensions are made by the City, when requested, they shall be paid for advance payment by the person or persons requesting them, at actual cost plus normal City overhead.

Whether the property owner pays a private contractor or the City to construct the waterline extensions, he shall for a period of ten (10) years be entitled to a reimbursement by the owner of property that obtains water service from the extension at a later date. An assessment shall be computed on a front foot (or square foot) basis and no new service connection shall be permitted to the extension until the person desiring the service has paid the assessment against his property.

The assessment is charges in addition to the regular service connection fee, and payment shall be made to the City Recorder at the time of application for water service in made, and the City Recorder shall have the obligation to repay the property owner who originally paid to have the extension constructed.

Section 4.120 Water Line Assessments: The City Recorder shall record each waterline extension project on a form and enter it in the assessment book, listing all benefitted property, the owner's name, the legal description or assessor's description, stating those owners paying the extension costs, the names of owners still owing an assessment, the amount owed, and the date the project was completed, as well as the date the assessment will expire.

Section 4.130 Water Pressures: The City Water Department will endeavor to furnish water at a desirable service pressure. Where service pressures are higher than needed, or desired, customers may install and maintain within their premises any required pressure regulators for their convenience. If any customer desires more pressure, he may install a pressure pump on his own service line, at his own expense, on his own property, and operate and maintain it at his own expense. The City Water Department will not be responsible for damage if caused by variations in pressure within the system.

Section 4.140 Liability: The City Water Department will not be liable for any damage or injury for leakage or the running of water on the premises from pipe lines, plumbing fixtures, open faucets, valves fixtures, devices, appurtenances and hoses located between the meter box and the premises served.

Section 4.150 Tampering: It shall be unlawful for any person or persons not authorized by the City Water Department to tamper with, alter, or damage any part of the water system.

Section 4.160 Resale and Unauthorized Use: No water shall be resold or distributed by the recipient thereof from the City Water System to any premises or property other than that for which application has been made, except in cases of emergency. Any person found furnishing water shall be in violation of this ordinance, and shall be charged two (2) times the applicable schedule rate for this use.

Section 4.170 Service Outside the City: Water service generally will not be available to properties outside the City of Wheeler boundaries, unless the Council determines, after a hearing, that adequate water is available to serve such property. Upon such determination, the Council may enter into a contract for water service with the owner of the applicant property. Such contract shall provide that water service may be cancelled at any time that the available supply of water is inadequate to meet the requirements of City users. It shall also provide for a rate schedule which will be comparable to cost of water to City users, including taxes paid by them.
ARTICLE 5. GENERAL PROVISIONS

Section 5.010 Severability: The provisions of this ordinance are severable. If any section, subsection, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 5.020 Repeal of Inconsistent Ordinances: Any and all ordinances, resolutions or provisions thereof which are contrary to or inconsistent with the terms, provisions, and intent of this ordinance are hereby repealed.

Section 5.030 Interpretation: Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions of this ordinance or any other ordinance, the provision which is more restrictive shall govern.

Section 5.040 Penalty: A person violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than two hundred fifty ($250.00) dollars. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

Passed by the City Council this 2014 day of October, 1981.

Passed by the following vote: __Ayes ___ Nayes

___ Abstentions

First Reading; July 21, 1981

Second Reading; July 21, 1981

Third Reading; October 20, 1981

ATTEST:

Mayor

City Recorder
CITY ORDINANCE NO. 91-04

AN ORDINANCE AMENDING THE CITY OF WHEELER WATER SYSTEM ORDINANCE NO. 81-4

WHEREAS, The Water Ordinance has a provision for placing a lien on property where the water bill is not paid for ninety (90) days, and

WHEREAS, under present State Statute fees charged to a property instead of to a person, makes those fee charges a tax rather than a fee,

NOW, THEREFORE THE CITY OF WHEELER ORDAINS AS FOLLOWS:

Section 4.090 Water Charges Liens; of ARTICLE 4. ADMINISTRATIVE is deleted.

Passed by the Common Council this 16th day of July, 1991 by the following vote;

  3 ayes, 0 nays, 0 abstentions.

 ATTEST:

[Signature]
Darrell R. Olson, City Recorder

Robert Turner, Mayor
CITY OF WHEELER

ORDINANCE NO. 2001-02

AN ORDINANCE AMENDING ORDINANCE NO. 81-4 TO DEFINE PAST DUE, DELINQUENT, INACTIVE AND ABANDONED WATER SERVICES AND ACCOUNTS

THE CITY OF WHEELER ORDAINS AS FOLLOWS:

Section 1. Definitions

"Active account": A water service/account connected to the City water system which is not in a past due status.

"Past due account": A water service/account for which the amount billed 60 days ago has not been paid.

"Delinquent account": A water service/account for which the amount billed 90 days ago and the associated interest charges have not been paid.

"Inactive account": A water service/account for which the amount billed 105 days ago and the associated interest charges have not been paid and which has been turned off.

"Abandoned service": A water service which has been inactive for at least six (6) months

Section 2. Continuous Service. Once a water service has been connected to the City water system it shall be considered an active service and it shall be subject to the normal fees for its customer class.

Section 3. Inactive Water Account. When a water service becomes inactive an inactive account record for it shall be created on the City water ledger. This inactive account shall be carried on the ledger for six (6) months during which time it shall accrue the monthly "to the tap" charge and interest. If the account is still inactive at the end of the six month period it shall be declared abandoned by the City Council. One month before an inactive account is due to be declared abandoned the property owner listed on the City's water ledger shall be notified by certified mail of the pending action and its consequences.

Section 4. Reactivation of Inactive Water Service. In order for an inactive water service to be reactivated the property owner shall pay the fees accrued while the account was inactive, including interest, and a fee to turn on the water.

Section 5. Reactivation of Abandoned Water Service. In order for an abandoned water service to be reactivated the property owner shall pay the current System Development Charge and Connection Fee.
Section 6. Water Services Currently Turned Off. Any water service turned off for lack of payment of water charges at the time of the passage of this ordinance are declared to be inactive. The property owner shall be sent notice by certified mail stating that the service is declared inactive as of the date of the passage of this ordinance, and that it shall be treated as described in this ordinance. A copy of this ordinance shall accompany the notice.

Section 7. Severability. The invalidity of any section or subsection of this ordinance shall not affect the validity of the remaining sections or subsections.

Section 8. Emergency Declared. This ordinance is necessary for the preservation of the public peace, health and safety, and an emergency is declared to exist. This ordinance shall take effect immediately upon its passage.

ADOPTED by the City Council this 20th day of March, 2001, by the following vote:

CITY COUNCIL
WHEELER, OREGON

Sandy Dounce, President

Juana Del Handy, Councilor

Chuck McLaughlin, Councilor

Bill Mullen, Councilor

Elizabeth Stine, Councilor

Aye Nay Absent/Abstain

ATTEST:

Stevie S. Burden, Mayor

Dennis M. Lancaster, City Recorder

Date signed:

ORDINANCE NO. 2001-02, Page 2 of 2
CITY OF WHEELER
ORDINANCE NO. 2002-01

AN ORDINANCE AMENDING THE CITY OF WHEELER,
WATER SYSTEM ORDINANCE NO. 81-4

WHEREAS, the City of Wheeler is required by Rural Development to have the following policy in order to qualify for loan and grant funds for the water project,

THE CITY OF WHEELER ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 81-04, the City of Wheeler Water System Ordinance be amended to add the following section to Article 1, Introduction Provisions:

   Section 1.025 Wetlands Protection: The City of Wheeler shall not provide water service to any new structures or development which would encroach upon or adversely affect any designated wetland within the City limits or urban growth boundary.

Section 2. Whereas the City Council declares that an emergency to exist in that this Ordinance is necessary for Rural Development funding of the City's water project, this Ordinance shall be effective immediately upon adoption.

ADOPTED by the City Council this 19th day of February, 2002, by the following vote:

CITY COUNCIL
WHEELER, OREGON

\[\text{Sandy Duenas}\]
Sandy Duenas, President

\[\text{Alanna Del Handy}\]
Alanna Del Handy, Councilor

\[\text{Bill Mullen}\]
Bill Mullen, Councilor

\[\text{(vacant position)}\]
\[\text{Elizabeth Stone}\]
Elizabeth Stone, Councilor

\[\text{Steve S. Burdell}\]
Steve S. Burdell, Mayor

\[\text{2-19-02}\]
Date signed

\[\text{ATTEST:}\]
\[\text{Dennis M. Lancaster, City Recorder}\]
CITY OF WHEELER

RESOLUTION NO. 2005-20

A RESOLUTION TO SET WATER RATES

WHEREAS, the City of Wheeler has reviewed the City Budget and Finance Reports of Fiscal Year 2005-2006 regarding the Water Fund;

WHEREAS, it has been determined that the increased costs to the City to operate its Water Fund is negatively affecting the Beginning Cash Balance of this fund;

WHEREAS, the City Council wants all users of the system to pay their fair shares of the costs of maintaining the system and treating the water; and

WHEREAS, the current water rate schedule was established in March, 1998;

NOW, THEREFORE, BE IT RESOLVED, that every connection to the water system pays a “to the tap” charge and that charge will be increased;

BE IT FURTHER RESOLVED, that every connection to the water system pays a water usage charge based on the number of gallons of water used and that charge will be increased;

BE IT FURTHER RESOLVED, that the attached “WATER RATES SCHEDULE” listing “to the tap” charges and water usage rates be adopted effective January 1, 2006, and

BE IT FURTHER RESOLVED, the aforementioned schedule be made part of this resolution.
RESOLUTION NO. 2005-20
A RESOLUTION TO SET WATER RATES

ADOPTED by the City Council this 15th day of November, 2005, by the following vote:

<table>
<thead>
<tr>
<th>CITY COUNCIL</th>
<th>Aye</th>
<th>Nay</th>
<th>Absent/Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheeler, Oregon</td>
<td>X</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Juana Del Handy, Councilor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virgil L. Staben, Councilor</td>
<td>X</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Paul Russo, Councilor</td>
<td>X</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>James W. Neilson, Councilor</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Curt Lorentz, Councilor</td>
<td></td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

ATTEST: Doug W. Hooper, City Manager

[Signature]
WATER RATES SCHEDULE, EFFECTIVE JANUARY 1, 2006

Customer class | Monthly service charge
---|---
1. Residential | 20.70
2. Multifamily / motel | 34.50
3. Bars / Restaurants | 34.50
4. General commercial | 20.70
5. Paradise Cove | 34.50
6. Care Center | 34.50

Meter size | Meter capacity rating factor
---|---
a. less than 1" | 1
b. 1" | 1.67
c. 1.5" | 3.33
d. 2" | 5.33
e. 4" | 16.66

The meter capacity rating factor times the monthly service charge equals the monthly "to the tap" charge.

WATER USAGE RATE

The usage rate for water is $0.0028 per gallon of water. The usage rate times the number of gallons used equals the monthly water usage charge.
CITY OF WHEELER

RESOLUTION NO. 2000-11

ESTABLISHING A WATER SERVICE CONNECTION FEE

WHEREAS, the City of Wheeler has a System Development fee for water service connection; and

WHEREAS, state law requires those monies be dedicated specifically to water system improvements; and

WHEREAS, the System Development fee does not factor in the price of the meter; and

WHEREAS, the System Development fee does not factor in the cost of staff time to install and inspect the service hook-up;

NOW, THEREFORE, BE IT RESOLVED, that the City of Wheeler hereby declares the attached Application for Water Service further be known as a Service Connection Fee and that the fee be applied to all customers of the Wheeler Water Department.

DATED this 20th day of June, 2000 by the following vote:

CITY COUNCIL
WHEELER, OREGON

Steve Barden
Mayor

Sandy Donna
President

Lee Stenslie
City Manager

Chuck McLaughlin, Councilor

Bill Mullen, Councilor

Aye  Nay  Absent/Abstain

X    
X    
X    
X    

ATTEST: Randall M. Daly
City Recorder
CITY OF WHEELER
Wheeler Water Department
775 Nehalem Boulevard
PO Box 177 Wheeler, OR 97147
(503) 368-5767

Resolution 2000-11
Effective Date: June 20, 2000

APPLICATION FOR WATER SERVICE

The undersigned hereby requests water service from the City of Wheeler Water Department to service the property indicated below. In consideration of such service, the applicant agrees to pay the following:

System Development Charge: See SDC Ordinance
Service Connection Fee: $200.00
Meter: At City's cost

The Service Connection Fee includes Wheeler Water Department supplied materials for the connection (service saddle, service line, valves, fittings, meter, meter box, and any other materials required), supervision and inspection of the installation and permit from the Department. The cost of equipment and labor for excavation of the service line trench, saw cutting the street paving, water main tap, installation of the Department supplied materials, backfill, pavement replacement and any other installation costs required will be paid directly by the applicant to his/her contractor. Applicant's contractor shall be approved by the Department for the installation. Future maintenance of the service by the Department between the main and the meter box will begin upon acceptance of the installation by the Department. Applicant is responsible for installation and maintenance of the service line from the meter to the residence, and for maintaining the meter box's visibility and accessibility at all times.

Applicant further agrees to abide by all rules and regulations of the Department and Oregon Health Division.

Department agrees only to supply water in an amount and at a pressure required by state law, and assumes no responsibility for any lines on private property, nor for any damages resulting from installation or maintenance of such lines.

Property Owner's Signature ____________________________ Date ___________
CITY OF WHEELER

ORDINANCE NO. 2000-01

AN ORDINANCE ESTABLISHING A WATER SYSTEM DEVELOPMENT CHARGE, ESTABLISHING METHODOLOGY FOR CHARGE, ESTABLISHING APPEALS PROVISIONS.

WHEREAS, the 1989 Session of the Oregon Legislature enacted new state law relating to system development charges (ORS 223.297 through 223.314), and

WHEREAS, it is important to the City of Wheeler that costs of growth are equitable and rationally shared by new growth and development activities,

NOW, THEREFORE, the City of Wheeler does hereby ordain as follows:

Section 1.0 Purpose. The purpose of the water system development charge is to provide reimbursement to the City of Wheeler for previously incurred costs in providing a water supply, treatment, and distribution system for City of Wheeler use. This charge is for additional capacity of the system to provide for additional development and growth within the City and upon all lands outside the boundary of the City which will connect to or otherwise use the water system.

Section 2.0 Scope. The system development charge imposed by this ordinance is separate from, and in addition to, any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

Section 3.0 Definitions. For purposes of this Ordinance, the following terms shall mean:

3.1 Capital Improvements. Facilities or assets used for:

3.1.1 Water supply, treatment and distribution;

3.2 Development. Taking any action relating to land which requires a building permit, a land use approval, or an application to connect to City water. Any new construction or existing uses being converted that cause an increase in the rate of water usage.

3.3 Developer. That person, firm, corporation or partnership causing development to occur and making application to the City of Wheeler Water Department for a water connection.
3.4 Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 4 of this ordinance.

3.5 Reimbursement Fee. A fee for costs associated with capital improvements already constructed or under construction on the date the fee is adopted pursuant to Section 4 of this Ordinance.

3.6 System Development Charge. A reimbursement fee, a public improvement fee or a combination thereof collected from an owner for water service to a parcel of land at the time of water connection permit application for increased usage of the water system. System development charges do not include fees assessed or collected as part of a local improvement district or the cost of complying with requirements or conditions imposed by a land use decision or compliance with building code requirements.

Section 4.0 System Development Charge Established.

4.1 System development charges shall be established and may be revised by Ordinance of the City Council of the City of Wheeler. The Ordinance shall set the amount of the charge and may set forth the type of permit to which the charge applies, the type of use to which it applies, or the geographic area in which the charge applies.

4.2 Unless otherwise exempted by the provisions of this Ordinance or other local or state law, a system development charge is hereby imposed upon all development within the City, and upon all development outside the boundary of the City that connects to or otherwise uses the water system of the City.

Section 5.0 Methodology

5.1 The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused or surplus capacity, rate-making principles employed to finance publicly-owned capital improvements, and other relevant factors identified by the City Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of the water system facilities.

5.2 The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.
5.3 The methodology used to establish the water reimbursement fee shall be as shown in the attachments.

5.4 The methodology used to establish the water improvement fee shall be as shown in the attachments.

Section 6. Authorized Expenditures.

6.1 Funds generated from reimbursement fees shall be applied only to capital improvements for the water system, including expenditures relating to repayment of indebtedness.

6.2 Improvement fees.

6.21 Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.

6.22 A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the City pursuant to Section 8 of this ordinance.

6.3 Notwithstanding subsections 6.1 and 6.2 of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

Section 7. Expenditure Restrictions

7.1 System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

7.2 System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.
Section 8. **Improvement Plan.** The City Council shall adopt a plan or project list that:

8.1 Lists the capital improvements that may be funded with improvement fee revenues;

8.2 Lists the estimated cost and time of construction of each improvement; and

8.3 Describes the process for modifying the plan or project list.

In adopting this plan, the City Council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.

Section 9. **Collection of Charge**

9.1 The system development charge is payable as follows:

9.11 **New Use.** Upon the issuance of a permit or approval to connect to the water system;

9.12 **Changed Use.** When a new meter size is installed;

9.2 If development occurs which would trigger a system development charge, without the City being aware of same, the system development charge is immediately due and payable when the City learns of the development.

9.3 The City Recorder shall collect the applicable system development charge from the owner when a connection to the water system of the City is made, or when the City Recorder becomes aware that a new meter size is required.

9.4 The City Recorder shall not allow such connection or grant any necessary approvals relating to the development until the system development charge has been paid in full, unless an exemption is granted pursuant to Section 10 of this ordinance.

Section 10. **Exemptions**

10.1 All water system uses established and existing and connected to the water system on or before the effective date of this Ordinance shall be exempt from a system development charge. Additionally, all water system users for which final written approval of the plans for on-site or off-site water system components has already been
issued by the City as of the effective date of this Ordinance shall also be exempt from a system development charge.

10.2 Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

10.3 An alteration, addition, replacement or change in use that does not increase the parcel’s or structure’s rate of use of the water system facility are exempt from all portions of the system development charge.

10.4 A development owned by the City is exempt from all portions of the system development charge.

10.5 A service connection the City believes will not be in existence for more than six consecutive months is exempt from all portions of the system development charge. Such service, if it continues for more than six consecutive months, shall be fully subject to all applicable systems development charges.

Section 11 Credits

11.1 Change of Use. When a system development charge is required to be paid because of a Changed Use (Section 3.2 above) a credit shall be given for the system development charge that is applicable to the prior use.

11.2 A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the City of the public improvement. The credit shall not exceed the improvement fee even if the cost of the qualified public improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

11.3 If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the City’s minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for a credit under this subsection. The
request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the City.

11.4 When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

11.5 Notwithstanding subsections 4 and 5, when establishing a methodology for a system development charge, the City may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements or a credit based upon any other rationale the City Council finds reasonable.

11.6 Credits shall not be transferable from one development to another.

11.7 Credits shall not be transferable from one type of system development charge to another.

11.8 Credits shall be used within 10 years from the date the credit is given.

Section 12. Notice:

12.1 The City shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least 45 days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the City.

12.2 The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
Section 13. Segregation and Use of Revenue

13.1 All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the City. System development charges shall be used for no purpose other than those set forth in Section 6 of this ordinance.

13.2 The City Recorder shall provide the City Council with an annual accounting, based on the City's fiscal year, for system development charges showing the total amount of system development charge revenues collected and the projects funded from each account.

Section 14. Appeal Procedures for Expenditures of System Development Charge Revenues

14.1 A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the City Council by filing a written request with the City Recorder describing with particularity the decision of the City and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

14.2 After providing notice to the appellant, the City Council shall determine whether the City Recorder's decision or the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the City Council determines that there has been an improper expenditure of the system development charge revenues, the City Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the City Council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

Section 15. Legal Challenge to System Development Charge Methodology. A legal action challenging any methodology adopted by the City Council pursuant to Section 5 shall not be filed later than 60 days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100, not otherwise.
Section 16. **Prohibited Connection.** No person may connect to the water system of the City unless the appropriate system development charge has been paid in full.

Section 17. **Penalty.** Violation of Section 16 of this ordinance is punishable by a fine not to exceed $500.00.

Section 18. **Construction.** The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made in part of this ordinance.

Section 19. **Severability.** The invalidity of a section or subsection of this ordinance shall not affect the validity of the remaining sections or subsections.

**Dated** this 18th day of January, 2000 by the following vote:

<table>
<thead>
<tr>
<th>CITY COUNCIL</th>
<th>Aye</th>
<th>Nay</th>
<th>Absent/Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td>WHEELER, OREGON</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mayor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stevie Burden, Mayor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>President</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sandy DeGuma</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joe Stine, Councilor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lou Stine, Councilor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chuck McLaughlin, Councilor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bill Mullen, Councilor</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ATTEST:**

Randall M. Lally
City Recorder
October 19, 1999

Project No. 1749.10

Mayor Stevie Burden and
City Council
City of Wheeler
P.O. Box 177
Wheeler, Oregon 97147

Re: Proposed Water System Development Charges

Dear Mayor Burden and City Council:

Enclosed is a copy of a proposed Water System Development Charges report prepared for the City of Wheeler, as you have requested. The report recommends a System Development Charge of $3,670 per single-family equivalent dwelling. The recommended SDC varies with meter sizes and charges, as shown in Table 1 on page 3 of the report.

The System Development Charge, as proposed herein, assumes the City will proceed on its own without participation from Manzanita. If the City eventually works with Manzanita to develop an independent System Development Charge, it would be broken into essentially two parts. First, the City would need to recover costs for its own improvements, and a rough calculation of this SDC would be about $1,950. This assumes the City would bear the local share of about $505,000 in loan costs for their project. The regional SDC, as estimated before, would be about $800, which would need to be added to the City’s SDC. Therefore, the total SDC with Manzanita’s participation may be in the range of $1,860, or approaching about $2,000. Clearly, the SDC impact will be highly dependent upon Manzanita’s participation in the regional water supply.

Since we do not know at this time whether Manzanita will participate, it is important for the City to adopt a charge that will cover its expenses, in the event it must proceed by independent action. The System Development Charge needs to be adopted by the City Council by ordinance. Randy Baly and I are hoping that we will receive clear direction during the discussion this evening at your regular Council meeting so that we can bring back to you a final document for adoption in your November Council meeting.
Mayor Stevie Burden and
City Council
October 19, 1999
Page 2

Please review the enclosed report. I trust there will be considerable discussion on the report and a
decision as to the course of action that the City wishes to take. Prior to your next Council
meeting, Randy Ealy and I will work with your City Attorney to develop the necessary
ordinance.

Sincerely,

LEE ENGINEERING, INC.

F. Duane Lee, P.E., W.R.E.

Enclosures
cc: Randy Ealy
Basis for Assessing SDC Charges

Oregon Revised Statutes 223.297 through 223.314 provide a uniform framework for the imposition of System Development Charges by governmental units for specific purposes and require that charges may be used only for capital improvements. The statutes set forth specific requirements for levying this fee. The System Development Charge is typically levied by Oregon municipalities as a means by which growth pays its fair share for capital improvements to systems that are specifically constructed to serve the growth faction in any community.

The Act allows for collection of fees to provide assets for the construction of:

1. Water supply, treatment and distribution systems;
2. Wastewater collection, transmission, treatment and disposal;
3. Drainage and flood control;
4. Transportation; or
5. Parks and recreation.

The fee may include a portion for costs associated with capital improvements to be constructed, or it may include a reimbursement fee, which means a fee for costs associated with capital improvements already constructed or under construction to serve future growth.

Application of Fees

The moneys from the System Development Charge fees may only be spent on the facilities used to establish the fee and/or the debt service payments associated with construction of these facilities. This implies that before System Development Charges can be calculated, a system or plan must be in place that identifies the needs for future growth. System Development Charge revenues are to be deposited in designated accounts for such moneys. The City is to provide an annual accounting for the System Development Charge account showing the total amounts of the System Development Charges collected for each system and the projects that may have been funded in any given year.

Oregon statutes specify that capital obtained through water connection charges, as opposed to SDC charges, in excess amounts necessary to reimburse the City for its cost of inspecting and installing connections, are SDC's and subject to the same SDC provisions. In other words, moneys received in excess of costs to provide for connection to the City's water system (costs in excess of the actual service line, meter and associated costs), are considered to be SDC's no matter the name used by the local jurisdictions. The SDC's set forth in this report are the only
capital acquisition fees recommended. The City of Wheeler's other fees and charges are based on other cost principles. In cases where additional moneys are required for construction and/or debt payment, general water rates will be appropriately adjusted. Thus, both current and new City customers become equally responsible for residual equity growth requirements or depreciation of existing assets.

System Development Charges do not include any fees assessed or collected as a part of a local government district, a charge in lieu of local improvement district assessments, or the cost of compliance with the requirements or conditions imposed upon a land use decision, expedited land division, or limited land use decision. In the case where the City anticipates extending service to new areas of town, improvements in these areas will be paid for by local developers. However, when they connect to the City system, they will owe SDC's which allow for the City to recover costs associated with delivering water to these new areas of town. The costs incurred by the developments for local improvements can be paid either through private capital or through local improvement districts established by the City. However, these costs are not included in the proposed System Development Charge.

Methodology

The first step in determining System Development Charges is to apportion the anticipated Capital Improvement Program between meeting current user needs and facilities necessary to serve the future Wheeler customer base. The proposed Wheeler Capital Improvement Program, outlined in various studies, will help to strengthen the supply, storage, and transmission functions of the water system. None of the proposed improvements to be financed by System Development Charges are for service to existing customers. Although there are Capital Improvement Projects related to upgrading existing facilities, these capital expenses will continue to be paid for directly by the customers requiring the service through water rate revenue.

This report assumes that the local costs of the project will be $1,750,000 (see Engineering Report on Water Source Improvements – Revised Project, dated July 20, 1998). This new capital project, including source improvements and City system improvements, will serve existing and future customers proportionately.

The next step in determining the System Development Charges is to convert the total dollar values into a common rate. It is suggested that the common rate be developed on the basis of future population and estimated single-family equivalent dwelling units that are likely to be constructed. The proposed future population to be served by the improvements is 670 people. The existing population in 1999 was about 350 people, meaning that the new customers to be served by the proposed improvements equal the difference, or about 320 new citizens that will be moving to Wheeler or that will be served by the Wheeler water system.

There are now, in 1999, about 292 equivalent meters. The total growth will include new housing and new commercial and industrial facilities. Total future equivalent housing units are estimated at 277 houses and about 200 equivalent meters serving commercial accounts, or about 477 equivalent meters.
Therefore, the estimated cost per single-family equivalent is the proposed $1,750,000 cost divided by 477 single-family equivalents, or approximately $3,669 per single-family equivalent unit.

The full cost recovery System Development Charges recommended are as shown in the following Table 1. The tabulation basically equates a single-family equivalent unit to be served by a 5/8" by 3/4" meter. For meter sizes larger than 5/8" by 3/4", appropriate multiplication factors should be used to arrive at an equitable SDC. For example, a standard residential meter can produce approximately 20 gallons per minute to serve the internal plumbing and requirements for a typical residence. A 1" meter, however, can serve up to 50 gallons per minute, or 2-1/2 times that served by a standard residential meter. Therefore, a 1" meter should be charged at least 2-1/2 times the proposed charge for a proposed single-family equivalent unit. The argument promoted in this regard is that charges should be made based on the demand an individual service will place on the system, not necessarily the total amount of water used.

The table further extrapolates the System Development Charge for 5/8" to 4" meters. The equivalent factor is taken from standard American Water Works Association information indicating the recommended maximum demand for any given meter. The meter should be sized based on the plumbing needs and other demands of any connection. Guidelines are presented in the American Water Works Association Manual of Water Supply Practices, Sizing Water Service Lines and Meters, AWWA Manual M22. The City should utilize this manual in determining the required service size for any future service connection.

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Equivalent Factor</th>
<th>Recommended SDC</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8&quot; x 3/4&quot;</td>
<td>1.0</td>
<td>$3,670</td>
</tr>
<tr>
<td>1&quot;</td>
<td>2.5</td>
<td>$9,175</td>
</tr>
<tr>
<td>1-1/4&quot;</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>1-1/2&quot;</td>
<td>5.0</td>
<td>18,350</td>
</tr>
<tr>
<td>2&quot;</td>
<td>8.0</td>
<td>29,360</td>
</tr>
<tr>
<td>2.5&quot;</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>3&quot;</td>
<td>15.0</td>
<td>55,050</td>
</tr>
<tr>
<td>4&quot;</td>
<td>25.0</td>
<td>91,750</td>
</tr>
</tbody>
</table>

**Implementation and Adoption**

In order to accommodate the provision of Measure 5 (the 1-1/2% property tax limitation), System Development Charges should be charged at the time the application for new services is made. The SDC is not a charge to the property. Rather, it is a claim by the service on the capacity of the existing water system. This capacity is not required for the property. It is needed to serve the anticipated functions for which the service application is made.
The System Development Charge statutes require the Wheeler City Council to adopt financial, planning, notification and operating methods to implement the required ordinance. Specific procedures should be developed and incorporated into the adopting legislation. The required procedures are:

1. Expenditure Challenge
   a. Administrative procedure for challenge must be adopted;
   b. Challenge must be filed within two years of expenditure;
   c. Form of challenge shall be a writ of review; and
   d. If expenditures are found to be in violation of SDC law limitations, the local jurisdiction must replace the funds within one year following determination.

2. SDC Method Challenge
   a. Method must be established by ordinance. This can be done by attaching this report to the adopting ordinance.
   b. Method must be available for public inspection. Copies of this report should be readily available in the City's offices.
   c. Legal action to contest methodology must be filed within 60 days.

3. Credit
   a. Must be established in the same ordinance setting forth the improvement fee.
   b. Legal action to contest method must be filed within 60 days.

4. Planning
   a. Plan to spend SDC revenues must be prepared. Lee Engineering’s reports serve this function.
   b. Plans may be modified at any time. These modifications are best done through formal action by the Board of Commissioners. Please note that if projects are added or subtracted the amount of the fee is subject to change.

5. Accounting
   a. Annual accounting must be provided.
   b. Total collected for each system and projects funded must be disclosed.
AN ORDINANCE ADOPTING THE CITY OF WHEELER WATER MANAGEMENT AND CONSERVATION PLAN

WHEREAS, the City Council of the City of Wheeler has reviewed a proposed water management and conservation plan prepared by HGE, Inc.;

WHEREAS, the City Council has determined that this proposed plan will guide conservation of potable drinking water in the community;

WHEREAS, the Wheeler City Council is authorized to enact ordinances in the best interest of the community;

NOW, THEREFORE, the City of Wheeler ordains as follows:
The City of Wheeler Water Management and Conservation Plan (attached and herein referenced) is adopted as the official policy governing and guiding future water conservation actions in the City of Wheeler. Under the provisions of the City of Wheeler Charter, Chapter VIII, Section 32, this ordinance shall become effective on the thirtieth (30th) day after the adoption of this ordinance.

ADOPTED BY THE City Council this 15th day of November, 2005, by the following vote:

CITY COUNCIL
WHEELER, OREGON

Juana Del Handy, Councilor
Virgil L. Staben, Councilor
Paul Russo, Councilor
James W. Neilson, Councilor
Curt Lorenz, Councilor

Aye  Nay  Absent/Abstain

X  X  1

ATTEST: Doug W. Hooper, City Manager
AN ORDINANCE DESCRIBING METHODS AND PROCEDURES FOR MAKING IMPROVEMENTS TO THE CITY WATER SYSTEM AND TO CITY STREETS, DESCRIBING METHODS AND PROCEDURES FOR LEVying AND COLLECTING SPECIAL ASSESSMENTS THEREFOR, AND DECLARING AN EMERGENCY

THE COMMON COUNCIL OF THE CITY OF WHEELER ORDAINS AS FOLLOWS:

Section 1. Initiation of Proceedings. Whenever the Common Council of the City of Wheeler deems it necessary to effect improvements to the city water system or any part thereof, or to city streets and sidewalks, either upon its own motion, or upon a petition of the owners of one-half of the property in the area to benefit especially from such improvements, and for which such improvements are to be paid in whole or in part by special assessment according to the benefits to the property to be assessed, then the Common Council shall, by motion, direct the City Recorder or the City Engineer to make a written report for such project and present the same to the City Council. Unless the Council shall direct otherwise, the report shall contain, where applicable, the following matters:

a. A map or plat showing the general nature, location, and extent of the proposed improvements and the land to be assessed for the payment of any part of the cost thereof;

b. Plans, specifications and estimates of the work to be done;

c. An estimate of the probable cost of the improvement, including any legal, administrative, or engineering costs attributable thereto;

d. An estimate of the unit cost of the improvement to the especially benefitted property;

e. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property especially benefitted;

f. The description of each lot, parcel of land or portion thereof to be specially benefitted, together with the names of the record owners thereof;

g. A statement of outstanding assessments against the property to be assessed.

Section 2. Council's Action on Report. After the report has been filed with the City Recorder, the Council may approve the report; modify the report, and approve it as modified; or require the City Recorder or Engineer to supply additional or different information for the improvement, or they shall have the authority to fix the boundaries of the assessment district, and to find that properties located within the
Section 3. Resolution and Notice of Hearing. After the Council has approved the report as submitted or modified, the Council shall, by resolution, declare its intention to make the improvements, provide the manner and method of carrying out the improvements, and shall direct the Recorder to give notice of such improvements by publishing in a newspaper of general circulation in the City of Wheeler, notice of its intention to construct the improvement. The notice shall be published one time; and notice shall also be posted in 3 public places in the City for not less than 14 days prior to the hearing. A copy of the notice shall be mailed to the record owners of each parcel of real property within the boundaries proposed to be assessed, at the address of such record owner as contained in the assessment records in the office of the Assessor of Tillamook County, Oregon. In the event there is a purchaser under a land sales contract, the land sales contract purchaser shall be deemed to be the owner. The notice shall state that:

a. The report of the City Recorder or Engineer is on file in the office of the Recorder and is subject to public examination;

b. The Council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 10 days following the publication of the notice, and at which public hearing objections to the improvement will be heard by the Council;

c. If prior to such hearing there shall be presented to the Recorder written objections by persons owning two-thirds or more of the area within boundaries of the proposed area to be assessed for the improvement, then the improvement shall be abandoned for at least 6 months;

d. This is the description of the property to be especially benefitted by the improvements, the owners of such property, and the estimate of the unit cost of the improvement to the property to be specially benefitted, together with the total cost of the improvement to be paid for by special assessments to the benefitted properties.

Section 4. Hearing. At the time of the public hearing on the proposed improvement, if the written objections shall represent less than the amount of property required to defeat the proposed improvement, then on the basis of the hearing of written and oral objections, if any, the Council may, by motion, at the time of the hearing, or at any time thereafter, order the improvements to be carried out in accordance with the Resolution providing therefor, or the Council may, on its own motion, abandon the improvement.
Section 5. Manner of Doing Work. The Council may provide in the improvement ordinance that the construction work may be done in whole, or in part, by the City of Wheeler, by contract let at public bid, or by any combination thereof. Where circumstances warrant, the Council may also permit the owner of property to be assessed to perform work upon the project as an offset to the amount of the assessment.

Section 6. Notice of Proposed Assessment. Before levying an assessment, the Council shall cause the City Recorder to mail to each property owner affected by the proposed assessment a notice which shall give the descriptions of each lot or other property proposed to be assessed together with the name and address of the owner as shown on the assessment records of the Assessor of Tillamook County, Oregon, together with the amount of the assessment. The notice shall fix a date by which time objections shall be filed with the Recorder. Any such objection shall state the grounds thereof. The Council shall consider such objections and may adopt, correct, modify or revise the proposed assessments. The Council shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments.

Section 7. Assessment Ordinance. The passage of the assessed ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined. Assessments shall become a lien upon the property assessed from and after the passage of the ordinance spreading the same and the entry in the appropriate City lien record. The City may specify the date on which the assessments are due and payable, and shall have the right to force payment of such assessments as provided by ORS 223.505 to 223.650.

Section 8. Method of Assessment and Alternative Methods of Financing. The Council, in adopting a method of assessment of the costs of the improvement may:

a. Use any just and reasonable method of determining the extent of any improvement consistent with the benefits derived;

b. Use any method which is just and reasonable to proportion the sum to be assessed among the properties determined to be specially benefitted;

c. Authorize payment by the City of all or any part of the cost of any such improvement.

Section 9. Appeal. Owners of any property against which assessment for local improvements has been imposed may seek review thereof under the provisions of ORS 34.010 to 34.100.

Section 10. Final Notice of Assessment. Within 10 days after the ordinance levying assessments has been passed, the City Recorder shall
send by certified mail a notice of assessment to the record owners of the assessed property. Notice of the assessment shall recite the date of the assessment ordinance and shall state that upon the failure of the property owner to make application to pay the assessment in installments within 14 days from the date of receipt of the notice, or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment ordinance, interest shall commence to run on the assessment and the property assessed will be subject to foreclosure; and the notice will further set forth the description of the property assessed, the name of the owner of the property and the amount of each assessment.

Section 11. Sending of Notices. Whenever a notice is required to be sent to the owner of a lot affected by a proposed assessment, such notice shall be sent to the owner of record as shown on the records of the Tillamook County Assessor. Where a contract purchaser is shown, such purchaser shall be deemed to be the owner of record. Any mistake, error, omission or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service or its equivalent upon the owner of record and the contract purchaser, if any.

Section 12. Deferred Payments. The Council may provide for payment of all or part of the costs of construction from funds available to the City, to be repaid by deferred installment payments; or for deferred payments under the terms of the Bancroft Bonding Act as contained in ORS 223.205 to 223.295. If the latter, then all provisions of the Bancroft Bonding Act are incorporated herein by reference and made applicable hereto.

Section 13. Deficit Assessments. If the initial assessment has been made on the basis of the estimated cost, and upon the completion of the work the cost is found to be greater than the estimated cost, the Council may make a deficit assessment for the additional costs. Proposed assessment on the respective lots within the assessment district for the proportionate share of the deficit shall be made and notices shall be sent. Opportunity for objections shall be given and such objection shall be considered and determination of the assessment against each particular lot, block, or parcel of land, shall be made as in the case of the initial assessment and the deficit assessments spread by ordinance. If assessments have been made on the basis of estimated costs and upon completion the cost is found to be less than the estimated cost, provisions shall be made for refund of excess amounts paid.

Section 14. Statutory Provisions. The provisions for reassessment contained in ORS 223.495 to 223.485 are hereby made applicable to any proceedings that are taken by virtue of the provisions of this ordinance.
Section 15. Emergency Stated. Whereas it is necessary for the peace, health and safety of the citizens of the City that these improvements be made as soon as possible, NOW THEREFORE an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage.

PASSED by the Common Council this 22nd day of May, 1982.

[Signature]
Mayor

ATTÉST:

[Signature]
Recorder

Page 5.
ORDINANCE NO. 82-3

AN ORDINANCE PROVIDING FOR INSTALLMENT AND DEFERRED PAYMENT FOR ASSESSMENTS IMPOSED FOR CONSTRUCTION OR IMPROVEMENT OF PUBLIC FACILITIES, AND DECLARING AN EMERGENCY

THE COMMON COUNCIL OF THE CITY OF WHEELER ORDAINS:

Section 1. Purpose

The purpose of this ordinance is to provide owners of property an opportunity to absorb the charges for public improvements or construction over a period of time, and to provide for deferral of payments under certain circumstances. For the purpose of this ordinance "owner" shall mean the record owner, or where there is a recorded purchase contract, the purchaser named in such contract.

Section 2. Installment Payments Permitted.

Whenever the common council has proceeded to cause any improvement to be constructed or made, and to assess the costs of such improvement to the property owners benefitted thereby, the owner of any property so assessed for such improvement in the sum of $25 or more, may, at any time within 14 days after final notice of such assessment is sent, file with the City Recorder a written application to pay:

a. The whole of the assessment in installments; or
b. If part of the assessment has been paid, the unpaid balance of the assessment in installments

Section 3. Application for installment payments.

The written application to pay in installments shall state that the applicant waives all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause the improvements to be constructed or made for which the assessment is levied, and in the apportionment of the costs thereof. The application shall provide that the applicant agrees to pay the assessment in equal semi-annual installments over a period of time and at a rate of interest as set by the Common Council in the ordinance spreading the assessment roll for the improvement. The rate of interest set shall include an amount sufficient to pay a proportionate part of the cost of administering and issuing bonds, if necessary, including, but not limited to, legal, printing and consultant fees, as determined by the Common Council. The application shall also contain a statement, by lots or blocks or other convenient description, of the property of the applicant assessed for the improvement.

Section 4. When Applications not Received.

No applications shall be received and filed if the amount remaining unpaid upon such assessment, together with the unpaid balance of any previous assessments for improvements against the property, equals or exceeds double the assessed valuation of the property, as shown by the last County tax roll.
Section 5. Applications to be Kept by Recorder

The City Recorder shall keep all applications in convenient form for examination. Applications received for each improvement shall be separate. He shall enter, in a book kept for that purpose, under separate heads for each improvement, the date of filing of each application, the name of the applicant, the description of the property and the amount of the assessment, as shown in the application.

Section 6. Assessment Lien Docket to be Kept

After expiration of the time for filing an application, the City Recorder shall enter in a docket kept for that purpose, under separate heads for each type of improvement, by name or number, a description of each lot or parcel of land against which an assessment is made, together with the name of the owner, and the amount of the unpaid assessment. This assessment docket shall stand thereafter as the lien docket for taxes assessed and levied in favor of the City, and for the amounts of unpaid assessments and interest thereon docketed against each lot or parcel of land until the assessments and interest are paid in full. All unpaid assessments and interest are a lien on each lot or parcel of land in favor of the City, and such lien shall take priority over all other liens and encumbrances whatsoever.

Section 7. Installment Payments

After application for installment payments has been made, there shall be due and payable semi-annually for the period of time set by the Council by the owner of each lot or parcel of land assessed, such percentage of the payment on principal sufficient to pay the principal owed by that parcel of property within the time set forth, together with the amount of 1/2 of one-year's interest at the rate per annum determined by the Common Council. The first payment shall be due and payable at the expiration of six months from the date of assessment as shown in the assessment docket, and subsequent payments shall be due at the expiration of each semi-annual period thereafter.

Section 8. Collection of Delinquent Installments

Should the owner neglect or refuse to pay installments as they become due and payable for a period of one year, then the Common Council may by reason of such neglect or refusal, and while the neglect or refusal to pay continues, pass a resolution giving the name of the owner then in default and the amount of the sums due, together with a description of the property from which the sums are owing, and declaring the whole sum, both principal and interest, due and payable at once. It may then proceed to collect all unpaid amounts as provided by law.

Section 9. Payments to be Made by the City Recorder

All payments shall be made to the City Recorder, who shall, when installments and interest on any assessment in the lien docket are due, make the proper extensions of such installments and interest on the lien docket. The Recorder shall notify the property owner that the install-
ments are due and payable, but the failure of any owner to receive such notice shall not prevent the collection of the installment. The City Recorder shall issue a receipt to the person paying the installment and interest, and shall make the proper entries on the bond lien docket showing the amount received for each payment, and the date thereof.

Section 10. Prepayment Allowed

At any time before payment of the full amount of the assessment, any owner of any property against which an assessment is made and lien docketed, may pay to the City Recorder the whole amount of the assessment for which the lien is docketed, together with the full amount of interest and costs accrued thereon to the date of such payment. Upon such payment, the City Recorder shall enter into the lien docket opposite the entry of the lien the fact and the date of such payment and that the lien is discharged.

Section 11. Bancroft Bonding Permitted

The common Council may, at any time, finance improvements to be paid by assessment under the provisions of ORS 223.205 and 223.210 to 223.295, known as the Bancroft Bonding Act. All provisions of that act are incorporated herein for Reference.

Section 12. Deferral of Assessments

It is the intent of the Council to adopt the provisions for providing for deferral of special assessments for local improvements found in ORS 311.702 to 311.735, and all relevant terms used herein will have the meaning given in ORS 311.702.

Section 13. Eligibility for Deferral

In order to qualify for deferral of payment, the individual filing the claim for deferral, and the homestead with respect to which the claim is filed, must meet the following requirements both at the time the claim for deferral is filed and thereafter, so long as payment of the amount of the special assessment is deferred:

1. The individual filing the claim must be 62 years of age or older.
2. The individual filing the claim, by himself or together with his spouse, must own the fee simple estate, or be purchasing the fee simple estate under a recorded instrument of sale.
3. The property, with respect to which the claim is filed, must be the homestead of the individual who files the claim for deferral.
4. If the individual is delinquent in payment of the special assessment for local improvement, or any installments thereon, the homestead must not yet have been sold at foreclosure sale.

COPY
Section 14. Claim for Deferral

A claim for deferral shall be in writing, and shall recite the facts establishing eligibility for the deferral. The initial claim shall have attached thereto a copy of the agreement for payment of the special assessment for local improvements in installments. The initial claim may be filed at any time during the calendar year in which the deferral is first claimed. A claim for a subsequent year must be filed on or before December 15 of the year preceding the year for which the claim is filed. If the amount of special assessment has become delinquent at the time of initial application for deferral, the terms shall include any delinquent installments and interest, together with penalties or costs imposed as a result of the delinquency, which amounts shall be considered payable in the calendar year for which claim of deferral is made.

Section 15. Duties of Recorder

1. If eligibility for special assessment deferral is established, the City Recorder shall:
   a. Show by an entry on the assessment lien docket which property specially assessed is accorded deferral.
   b. Send to the Oregon Dept. of Revenue a copy of the claim for deferral, and verify to the Department the amounts of special assessment for local improvement subject to deferral for the calendar year, the rates of interest and accrual dates, and any other pertinent information relating to payments of the deferred amounts.

2. The City Recorder shall continue to show on the assessment lien docket that the property with respect to which the deferral is allowed continues to be subject to special assessment deferral. The Recorder shall make a separate list of the properties subject to special assessment deferral and shall show the amount of special assessment for local improvements deferred for each property, and shall show the accrued interest added each year on the amount of special assessments for improvement deferred, and the total accrued interest.

3. The deferred assessment and interest shall continue to be a lien against the property in the same manner as any other unpaid special assessments, but shall not be subject to procedures provided for collection of delinquent special assessments, so long as the owner and property remain eligible and have applied for deferral.

4. Interest shall accrue on the amount of the deferred special assessments at the rate of 6% per annum. No other interest shall accrue on the amount of deferred special assessment for local improvement.

Section 16. Notice for Renewal

1. On or before September 1 of each year, the City Recorder shall send a notice to each individual who has claimed de-
ferral for the current year. He shall give notice by mail sent to the residence address of the individual as shown in the claim for deferral filed for the current year. The notice shall be in substantially the following form:

"TO: (name of individual)

If you want to defer the collection of special assessment installments and interest on your homestead for the calendar year beginning on January 1, ___, you must file a claim for deferral not later than November 15 with the City Recorder.

If you fail to file your claim on or before November 15, you will have to pay the special assessment installments and interest on your homestead, payable during the calendar year beginning January 1, ___."

2. If an individual who has claimed deferment for the current year does not file a claim for deferral on or before November 15, the City Recorder shall send, not later than December 1, a notice by certified mail to the residence address of the individual as shown on the claim for deferral filed for the current year. The notice shall be in substantially the following form:

"TO: (Name of individual)

You did not file a claim for deferral of special assessment installments and interest for your homestead for the calendar year beginning January 1, ___. Consequently, you will have to pay the special assessment installments and interest payable during the calendar year beginning January 1, ___.

If you wish to defer collection of the special assessment installments and interest for the calendar year beginning January 1, ___, on your homestead, you must file a claim for deferral with the City Recorder not later than December 15, ___, and pay a penalty of $10."

3. If the individual files a claim for deferral after November 15; and on or before December 15, and pays the penalty of $10, the homestead with respect to which the deferral was claimed shall be subject to deferral for the calendar year next beginning. The $10 penalty shall be paid into the general fund.

4. Failure to receive the notices provided for in this section is not a defense in any proceeding for the collection of the special assessment for local improvements. The City Recorder and other officers of the City are not personally liable for failure to give notices.

Section 17. When Deferred Assessments Become Payable

Except as provided in Section 18 below, all deferred assessments, including accrued interest, become payable when:
1. The individual who claimed deferral on his homestead dies;
2. The homestead is sold, or a contract to sell is entered into, or some person other than the individual who claimed the deferral becomes the owner of the property; or
3. The homestead is no longer the homestead of the individual who claimed the deferral, except in the case of an individual required to be absent from the homestead by reason of health.

Section 18. Rights of Spouse to Continue Deferral

1. Notwithstanding the provisions of the preceding paragraph, the spouse of the individual who claimed the deferral may elect to continue the homestead in its deferred status if:
   a. The spouse is or will be 60 years of age or older not later than six months from the date the circumstances in the preceding paragraph occur; and
   b. The homestead is the homestead of the individual who meets the other requirements for deferral.
2. The election under subsection (1) shall be filed in the same manner as a claim for deferral is filed, not later than August 15 of the year following the calendar year in which the circumstances listed in section 17 occur. Thereupon, the homestead with respect to which the deferral is claimed shall continue to be subject to the deferral, and the City Recorder shall make any necessary correcting entries into the records. The deferral shall continue until a special assessment for local improvements becomes delinquent or the property no longer qualifies for the deferral.

Section 19. Payment of Assessments

1. Subject to subsection 2, all or part of the deferred assessment and accrued interest may at any time be paid to the appropriate local officer by:
   a. The individual who filed the claim for deferral or his spouse.
   b. The next of kin of the individual who filed the claim for deferral, his heir at law, his child or any person having or claiming a legal or equitable interest in the property.
2. A person referred to in paragraph b of subsection (1) may make the payments only if no objection is made by the individual who filed the claim of deferral within 30 days after the local officer deposits in the mail notice to the individual who filed the claim that the payment has been tendered.
3. Any payments made under this section shall be applied first against accrued interest and any remainder against the deferral.
red assessment. Payment made pursuant to this section does not affect the deferred status of the homestead. Unless otherwise provided by law, the payment does not give the person paying the deferred assessment any interest in the property, or any claim against the estate, in the absence of a valid agreement to the contrary.

Section 20. Recorder to Forward Payments

When any deferred assessment, including accrued interest, is collected, the monies shall be credited to a special account and the appropriate entry shall be made evidencing payment on the assessment lien record. The City Recorder shall remit the amount of deferred special assessment and accrued interest to the Department of Revenue. The remittance shall be accompanied by an explanation giving a description of the homestead for which the assessment was collected, and a statement of the special assessment amounts and accrued interest amounts collected.

Section 21. Department of Revenue Rules to Govern

All provisions of this ordinance relating to deferred assessments shall be subject to the applicable rules of the Oregon Department of Revenue.

Section 22. Recorder Responsible for Forms and Records

The City Recorder is authorized to draft all necessary forms, and to set up all necessary records to carry out the provisions of this ordinance.

Section 23. Emergency Declared

This ordinance is necessary for the preservation of the public peace, health and safety, and an emergency is declared to exist. This ordinance shall take effect upon its passage.

PASSED by the Common Council this 20th day of June, 1982.

Mayor

ATTEST:

Recorder
WHEREAS the City Council of Wheeler, Tillamook County, Oregon has been studying the problem of supplying water to it's citizens and inhabitants, and

WHEREAS the City Council finds that it has been installing water mains and laterals in the past at a cost which does not meet the cost of the water mains and labor, which results in an unequitable cost to all it's citizens, and

WHEREAS the City Council finds that it needs to formulate a new policy for financing water main and lateral line extensions, and to set minimum standards for pipe, fire hydrants, and service connections, and

WHEREAS the City Council finds that it does not have an adequate set of records for the Water Department, and believes that these records are needed for proper future expansion of the water system, and

NOW THEREFORE BE IT RESOLVED, that all future water main and lateral line extensions and fire hydrants, shall come under a property Owner Responsibility Policy, that all benefited property shall pay by the foot front for new main and lateral extensions and Fire Hydrants.

BE IT FURTHER RESOLVED, that such extensions being made by a developer, the design, materials, and installation shall meet all city standards, and shall be inspected by the City Superintendent of Public Works before being covered, with the developer bearing the project cost, and

BE IT FURTHER RESOLVED, that the City of Wheeler shall finance the cost of replacement of it's existing water mains and laterals, when bringing them up to minimum standards, and

BE IT FURTHER RESOLVED, that the following minimum sizes for pipe, fire hydrants, and service connections be used to create an efficient grid system to carry water for human consumption and provided an adequate fire flow.

1. All water mains installed within the City of Wheeler, shall be a minimum size of 6" (inches), made of A.C. Transite, Steel, or P.V.C. Plastic with the NSF seal on it.
2. All lateral lines shall be a minimum size of 4" (inches), made of A.C. Transite, Steel, or P.V.C. plastic with the NSF seal on it.
3. All fire hydrants installed within the City shall be of the frost free type, and shall be installed at every other intersection, or every 600' (feet), whichever is more feasible.
4. These fire hydrants shall be a minimum size of 4" (inches), self-draining, have 2-2½" hose nozzles with NST thread and of the break-away type, so when struck will come apart without damage to the water line, and be valved between the mainline and the hydrant.
5. All service connections shall be a minimum of 1" (inch) P.V.C. plastic pipe with the NSF seal, run from a corporation cock to a meter stop with it's necessary fittings installed in a meter box, which shall enable the City to install a water meter in the future.

BE IT FURTHER RESOLVED, that a set of records for the Water Department be created, showing dates of installation, depth of bury, type and size of pipe used, distances between service connections, distances between tees, valves, elbows, etc. Also fire hydrants, location of, and type and size of make etc., this to be made available to the Fire Department. All this shall be compiled and kept up-to-date, thus enabling the City to have as accurate and as complete a set of records as possible for future reference.

Passed by the City Council of Wheeler this 15th day of August, 1972

ATTEST: [Signature]

[Signature]
AN ORDINANCE ADOPTING THE UNIFORM PLUMBING CODE OF 1988 AND THE STRUCTURAL
SPECIALTY CODE OF 1990, AND ALL FUTURE UPDATES FOR THE CITY OF WHEELER,
REPEALING PRIOR ORDINANCES AND RESOLUTIONS, AND DECLARES AN EMERGENCY.

The City of Wheeler ordains as follows:

SECTION I. That the City of Wheeler adopts the Uniform Plumbing Code
of 1988 and the Plumbing Specialty Code of 1990, and all future updates,
as the Plumbing Ordinance for the City.

SECTION II. That the City Recorder shall keep a current copy of these
Codes on file at Wheeler City Hall for public inspection.

SECTION III. That any violation of these Codes may result in a civil
penalty not to exceed $1,000.00. Each day of a continuation of a violation
is a separate violation.

SECTION IV. That if any section, subsection, sentence, clause or
phrase of this Ordinance is for any reason held to be invalid or unconsti-
tutional, such decision shall not affect the validity or constitutionality
of the remaining portions of this Ordinance. The City Council hereby declares
that it would have passed this Ordinance, and each section, subsection, clause
or phrase hereof, irrespective of the fact that any one or more sections,
subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION V. That any and all Ordinances, parts of Ordinances, Resolutions,
and parts of Resolutions in conflict with this Ordinance are hereby repealed
in their entirety.

SECTION VI. That the City Council declares an emergency, and that
this Ordinance shall take effect immediately upon its passage and adoption.

PASSED and ADOPTED by the City Council this 21st day of January, 1992,
and APPROVED by the Mayor this 21st day of January, 1992.

Robert Turner
Mayor

ATTEST:

Eugene L. Cox, City Recorder
CITY OF WHEELER

ORDINANCE NO. 97-01

AN ORDINANCE ENTERING INTO AN AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF MANZANITA FOR DEVELOPMENT OF A WELL SITE ON THE NEHALEM RIVER

WHEREAS, desires to obtain a commitment for construction financing from Rural Development (RD) for the development of a well site on the Nehalem River, and

WHEREAS, On February 7, 1996, Wheeler and Manzanita entered into an Intergovernmental Agreement for the possible development of said well site to provide a cost effective and long term source of water for north Tillamook County water users, and

WHEREAS, Rural Development has requested a number of minor revisions in said Intergovernmental Agreement to satisfy its requirements for financing the project, and

WHEREAS, Wheeler and Manzanita understand that full implementation of this amended Agreement is subject to a number of conditions as specified in Section 5 of the recital portion of said Agreement, now therefore,

THE CITY OF WHEELER ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Wheeler does hereby adopt that certain Amended Intergovernmental Agreement, a copy of which is labeled Exhibit "A" attached hereto and by this reference is incorporated herein.

PASSED by the City Council this 10th day of March, 1997, by the following vote: 3 ayes, 0 nays, 1 abstentions.

ATTEST:

Donald G. Brinkman, Mayor

Ann Morgan, Recorder pro tem
AMENDED INTERGOVERNMENTAL COOPERATIVE AGREEMENT

BETWEEN THE CITY OF WHEELER AND THE CITY OF MANZANITA

This agreement is between the City of Wheeler, an Oregon municipal corporation (hereinafter "Wheeler"), and the City of Manzanita, an Oregon municipal corporation (hereinafter "Manzanita").

RECITALS:

1. Wheeler and Manzanita are under Compliance Orders by the Oregon Health Division to bring their water systems into compliance with Safe Drinking Water Act surface water treatment rules.

2. Wheeler and Manzanita continue to experience substantial growth and available studies conclude that more growth in north Tillamook County is inevitable. Based on present water regulations, a groundwater source of water is the most cost effective and long term solution to meet present and future water needs for the area.

3. A groundwater source of water has been located at river mile 10.6 on the Nehalem River. Tests have concluded that sufficient water is available for a 40-50 year period. A groundwater source is not subject to the filtration requirements of surface water.

4. Wheeler and Manzanita acknowledge that they have authority to execute this cooperative agreement pursuant to the powers of the respective municipal charters and pursuant to ORS 225.050.

5. This Agreement is subject to a proposed phased project. The first phase is anticipated to involve test wells, satisfaction of requirements for environmental concerns as required by Rural Development ("RD"), location and purchase option agreements for a reservoir site, easements, water rights, permits, etc., all to allow the project to receive long term funding commitment from RD. The second phase is subject to long term financial commitment from RD and approval of the Oregon Health Division. Failure to receive the long term commitment from RD or approval from the Health Division shall cause renegotiation of this Agreement, or if not renegotiated, shall void this Agreement, as the parties may agree.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Establishment. The Nehalem Bay Regional Water Board (hereinafter "Board") is hereby established and organized in accordance with the terms of this agreement.
2. **Purpose.** The purpose of the Board is to develop, manage, maintain, and control a water supply distribution system to provide wholesale finished domestic water supply to Wheeler, Manzanita, and to future contractual surplus water purchasers.

3. **Powers.** The Board shall have the following powers:

   a. Purchase, own, hold, appropriate, and condemn land, facilities, rights of way, and water or water rights either in its own name or in the name of the individual parties hereto.

   b. To purchase, construct, or acquire water works, water pipelines, water rights, or any interest therein or in any of them.

   c. To provide a joint Board for construction, operation, management, and control of matters referred to herein.

   d. To issue revenue bonds for the purpose of carrying out any of the matters permitted by these powers.

   e. To perform pursuant to ORS 190.003 all powers pursuant to applicable charter, ordinance, or state or federal laws, which are necessary to efficiently operate, maintain, and expend its water treatment distribution facilities.

4. **Membership.** The Board shall consist of five (5) members. Two (2) of the members shall be residents of the City of Wheeler and three (3) shall be residents of the City of Manzanita. The members shall be appointed by the mayor of the respective city, with the appointment ratified by the respective city council. The membership of the Board may consist of members of Wheeler City Council and the Manzanita City Council.

5. **Terms of Office.** Members shall be appointed for a term of two years. For the purposes of the initial appointments, one (1) Manzanita representative and one (1) Wheeler representative shall be appointed for a one (1) year term. Members may be reappointed to succeeding terms.

6. **Vacancies and Removal.** Appointments to fill vacancies shall be for the remainder of the unexpired term. A member may be removed by his or her respective city council or board of directors for misconduct, misfeasance, malfeasance, or nonperformance of duty.

7. **Chair and Vice Chair.** At the first Board meeting, and in January of each subsequent year, the Board shall elect a chair and vice chair to serve a one (1) year term.

8. **Meetings.** Regular meetings of the Board shall be conducted at least once a month at a time and place that it designates. The Chair upon his own motion, may, or at the request of
two (2) members of the Board, shall, by giving notice to members of the Board, call a previously unannounced special meeting of the Board for a time not earlier than twenty-four (24) hours after the notice is given, unless an emergency exists. In cases of an emergency, notice reasonable under the circumstances shall be given. Three (3) members of the Board including at least one (1) representative of Wheeler and one (1) of Manzanita shall constitute a quorum. No action will be taken by the Board unless a majority of the Board present votes to support the action proposed.

9. Manager and Secretary. A manager and secretary shall be appointed by the Board. The manager shall, subject to the control and direction of the Board, (1) be the chief budget and fiscal officer of the Board, (2) be the chief purchasing and business agent of the Board, (3) prepare and submit to the Board financial activity reports of the Board quarterly, prepare such other reports and information as the Board may require, and prepare an annual operating budget to be adopted by the Board by June 30th of each year, (4) prepare billing statements and maintain revenue and expense accounts relating to the operation of the system. The secretary shall be responsible for the Board's records and shall keep a record of all Board proceedings.

10. Description of Physical Assets. The Board expects to design, construct and maintain physical assets including water works, treatment facilities, pipeline and master meters necessary to provide wholesale, finished water to its members and excess water to contract customers.

11. Water Rights. The Board will apply for water rights to the groundwater source, both certificates and permits in the name of the Board.

12. Development of Physical Assets and Water Rights. The initial construction of physical assets and securing of water rights shall be a joint project with each party contributing its share of the costs pursuant to the methodology based upon EDU's as set forth in Exhibit "A."

13. Operation, Maintenance and Administration of System. Routine system operation, maintenance and administration will be the responsibility of Manzanita and Wheeler through the use of existing staff and equipment. Both cities will provide staff and equipment when needed, but Manzanita shall have primary responsibility for repairs to that portion of the system (from well site to Highway 101 @ Old Mohler Rd., then continuing on to Manzanita), and Wheeler shall have primary responsibility for that portion of the system (from Highway 101 @ Old Mohler Rd., to Reservoir site and on to Wheeler). The proportionate share of operation and maintenance costs charged to Manzanita and Wheeler, shall be based on water consumption and is initially established pursuant to the methodology set forth in Exhibit "B." In the event that any party consumes water in excess of its annual proportionate share, the party shall pay to the Board an amount equivalent to the production costs of water used in excess of its proportionate share. Shares of operation and maintenance costs shall be reevaluated not less than every three (3) years, until the first reevaluation to be conducted in February, 1999. The reevaluation is based upon the water usage of each party for the year preceding the calendar year of reevaluation. Further adjustments of operation and maintenance shares shall be affected by Board resolution and shall not require an amendment of this Agreement.
14. **Termination of Agreement**

   a. After receipt of either grant assistance or loans from RD, this agreement cannot be terminated without the written consent of RD.

   b. **Disposition of Assets.** Upon termination of this agreement, all assets acquired for the benefit of the operation of the system shall be put up for public sale. Any proceeds from the sale of such assets shall be distributed to the parties based on the proportionate share of the respective parties operation costs in effect at the time of the termination.

   c. **Assumption of Bonded Debt.** Any outstanding debt related to capital improvements shall remain the responsibility of the respective party according to the original capital cost sharing formula.

15. **Responsibility for Obligations.** All debts, liabilities and obligations related to the operation of the system shall be borne by the parties based on the proportionate share of operation costs in effect at the time the obligation is incurred.

16. **Sales to Outside Users.** Requests for permanent access to the system shall be required and approved by a majority of the Board. For purposes of this section, outside users are those entities or individuals which are not presently full or part time customers of either Manzanita or Wheeler. Requests for permanent access to the system shall be reviewed on an individual basis and shall include a proposed rate analysis to reimburse the system for any capital expenditures and operation costs.

17. **Terms of Agreement.** This agreement shall remain in effect for an initial period of forty (40) years from the date of the proposed loan from RD. Further extensions of this agreement shall be subject to the review and approval of the parties.

Prior to receipt of either grants or loans from RD, this agreement may be terminated by a unanimous vote of the City Councils of both Manzanita and Wheeler.

18. **Amendment Provisions.** Terms of this agreement may be amended by mutual agreement of the parties. Any such agreement shall be in writing and shall refer specifically to this Agreement and shall be executed by the parties.

19. **Dispute Arbitration.** In the event of a dispute between the cities, said dispute shall be resolved in accordance with the American Arbitration Association Commercial Arbitration Rules. Two arbitrators shall be set on a panel for initial review. One arbiter shall be selected by each city. In the event this panel cannot agree, then a third panel member shall be selected as both cities shall agree, and the third panelist shall decide.
20. **Effective Date.** This agreement shall be effective on April 1, 1996.

21. **Written Notice Address.** All written notices required under this agreement shall be sent to:

Wheeler:  
City Manager  
City of Wheeler  
P.O. Box 177  
Wheeler, OR 97147

Manzanita:  
City Manager  
City of Manzanita  
P.O. Box 129  
Manzanita, OR 97130-0129

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals as of the date and year hereinabove written.

Wheeler is acting in this matter pursuant to Ordinance No. \textit{97-1} and adopted by the Wheeler City Council on the \textit{10th} day of \textit{March}, 1997.

Manzanita is acting in this matter pursuant to Ordinance No. \textit{97-03} and adopted by the Manzanita City Council on the \textit{5th} day of \textit{March}, 1997.

City of Wheeler

By: 

\textit{Thomas Cook}\textit{a}\textit{rnor}  
Mayor

By: 

\textit{Amy Morgan}\textit{or}n  
Recorder pro tempore

City of Manzanita

By: 

\textit{James \textit{Bo}}\text{\textit{e}}\textit{r}  
Mayor

By: 

\textit{J\text{\textit{ul}l} i\text{\textit{A}f}}  
Recorder
EXHIBIT A
SHARING OF CAPITAL COSTS
AMENDED INTERGOVERNMENTAL COOPERATIVE AGREEMENT
BETWEEN THE CITIES OF WHEELER and MANZANITA

SECTION 1:

Capital projects are to be divided into:

A. Common improvements which are shared by and which benefit all participants, such as wells, common pipelines, reservoirs, disinfection facilities, telemetering, etc.

B. User specific improvements, such as pipelines, master meters, control valves, etc., that only serve respective cities or wholesale customers.

SECTION 2:

Each city's share of capital costs is the sum of user specific costs, plus its share of the common improvement costs. The share of capital costs for common improvements shall be determined as a percentage of the total equivalent water connections. The common unit of measurement is the standard 5/8" x 3/4" meter used to serve a typical single-family dwelling. The maximum capacity of a 5/8" x 3/4" meter is 20 gpm, as established by the American Water Works Association Standard Specifications, and manuals of practice (AWWA C-700 and AWWA M22, respectively). The standard 5/8" x 3/4" meter shall be an equivalent dwelling unit (EDU). Large meters (full 3/4", 1", 1 1/2", etc.) shall be reduced to equivalent dwelling units by ratio of their maximum water flow capacity as published in the AWWA Standards. For example, a 1 inch meter is equal to 2.5 EDU's (50 gpm / 20 gpm = 2.5). The total equivalent water connections shall be the sum of all equivalent dwelling units (EDU's).

SECTION 3:


SECTION 4:

Initial costs will be incurred to serve existing customers and future customers for growth anticipated over 20 years. The proportion of each city's share of the total EDU's may change, depending on actual growth rates. Therefore, adjustment shall be made at the beginning of each fiscal year to adjust the cost sharing ratio to reflect actual totals, based on the total EDU's as of June 30 each year.
**SECTION 5:**

Estimates of equivalent dwelling units as of December 1, 1995:

<table>
<thead>
<tr>
<th>WHEELER</th>
<th>NO. EXIST. METERS</th>
<th>EDU FACTOR</th>
<th>SUBTOTAL EDU's</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>5/8&quot; x 3/4&quot; meters</td>
<td>185</td>
<td>185.0</td>
</tr>
<tr>
<td>2.</td>
<td>1&quot; meters</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>3.</td>
<td>1½&quot; meters</td>
<td>1</td>
<td>5.0</td>
</tr>
<tr>
<td>4.</td>
<td>2&quot; meters</td>
<td>1</td>
<td>8.0</td>
</tr>
<tr>
<td>5.</td>
<td>6&quot; x 1&quot; (Paradise Cove)</td>
<td>1</td>
<td>10.0</td>
</tr>
<tr>
<td>TOTAL EDU's</td>
<td></td>
<td></td>
<td>210.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MANZANITA</th>
<th>NO. EXIST. METERS</th>
<th>EDU FACTOR</th>
<th>SUBTOTAL EDU's</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>5/8&quot; x 3/4&quot; meters</td>
<td>1,146</td>
<td>1,146.0</td>
</tr>
<tr>
<td>2.</td>
<td>1&quot; meters</td>
<td>14</td>
<td>25.0</td>
</tr>
<tr>
<td>3.</td>
<td>1½&quot; meters</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>4.</td>
<td>2&quot; meters</td>
<td>4</td>
<td>8.0</td>
</tr>
<tr>
<td>5.</td>
<td>State Park</td>
<td>1</td>
<td>8.0</td>
</tr>
<tr>
<td>TOTAL EDU's</td>
<td></td>
<td></td>
<td>1,221.0</td>
</tr>
</tbody>
</table>

Turned off accounts are to be added as connected to the system. Abandoned and removed meters are not part of the system. Fire meters are served by in-city storage and pipelines and are not part of the total EDU.

Total EDU's (Wheeler and Manzanita) --- 1,431.5

Wheeler's share --- 210.5 / 1,431.5 = 0.1470 (or, 14.7%)

Manzanita's share --- 1,221.0 / 1,431.5 = 0.8530 (or, 85.3%)

NOTES:

1. It is assumed that each city will endeavor to keep water loss and unaccounted for water use to a level of 10% to 15% of total water use for each city. Flushing, reservoir cleaning, and other water use shall occur during off-peak times so as not to burden the capacity of shared systems.

2. Wholesale customers' share shall be taken into account when they are connected to the system. Their EDU total shall be added to the total EDU's and they shall pay their fair share.

EXHIBIT A - SHARING OF CAPITAL COSTS/AMENDED INTERGOVERNMENTAL COOPERATIVE AGREEMENT [Manzanita/Intergov. Eds]
ORDINANCE NO. 2000-04

AN ORDINANCE OF THE CITY OF WHEELER ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF MANZANITA FOR OPERATION OF A WELL SITE ON THE NEHALEM RIVER

WHEREAS, Wheeler desires to obtain a commitment for construction financing from Rural Utilities Service (RUS) for the replacement of distribution lines and addition of adequate drinking water and fire protection storage;

WHEREAS, RUS funds will only be made available to Wheeler when RUS is satisfied that Wheeler will be resolving its violation of the federal Clean Drinking Water Act;

WHEREAS, the IGA contained herein establishes Wheeler's commitment to jointly develop, operate, maintain and own a groundwater source with the City of Manzanita;

THE CITY OF WHEELER DOES ORDAIN AS FOLLOWS:

The City Council hereby adopts the Intergovernmental Cooperative Agreement labeled Exhibit A attached hereto and by this reference incorporated herein.

PASSED FIRST READING by the council this 31st day of October, 2000.

PASSED SECOND READING by the Council this 2nd day of October, 2000.

CITY COUNCIL
WHEELER, OREGON

Stevie Burden, Mayor
Sandy Doug, President
Lee Stine, Councillor
Chuck McLaughlin, Councillor
Bill Mullen, Councillor

Aye   Nay   Absent/Abstain

\[\begin{array}{ccc}
X & X &
\end{array}\]

ATTEST:

Randall M. Haley
City Recorder
INTERGOVERNMENTAL COOPERATIVE AGREEMENT
BETWEEN
THE CITY OF WHEELER AND THE CITY OF MANZANITA

This AGREEMENT is between the CITY OF WHEELER, an Oregon Municipal Corporation (hereinafter "Wheeler"), and the CITY OF MANZANITA, an Oregon Municipal Corporation (hereinafter "Manzanita").

RECITALS:

1. Wheeler and Manzanita are under Compliance Orders by the Oregon Health Division to bring their water systems into compliance with the Safe Drinking Water Act's surface water treatment rules.

2. While Wheeler is presently experiencing moderate growth and Manzanita substantial growth, available studies conclude that more growth in north Tillamook County is inevitable.

3. Based on present water regulations, a groundwater source of water is the most cost effective and long term solution to meet present and future water needs for the area.

4. A groundwater source of water has been located at river mile 10.6 on the South Fork of the Nehalem River and tests have concluded that sufficient water is available for a 40-50 year period. Although a groundwater source is not subject to the filtration requirements of surface water, future tests may determine some form of filtration is necessary.

5. Wheeler and Manzanita acknowledge that they have authority to execute this Cooperative Agreement pursuant to the powers of the respective municipal charters and pursuant to ORS 225.050.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. PURPOSE: The purpose of this Agreement is to develop, manage, maintain, and control a water supply distribution system to provide wholesale finished domestic water supply to Wheeler, Manzanita and future contractual surplus water purchasers.

2. JOINT SYSTEM: The joint system shall mean the well field, wells, disinfection plant, the transmission line from the wells to the intersection of Highway 101 and Highway 53, and two (2) master meters. Decisions on major changes to the joint system are subject to approval of both City Councils. Major changes are defined as one or more of the following:

Page 1 - Intergovernmental Cooperative Agreement Between the City of Wheeler and the City of Manzanita
(1) Addition or discontinuation of a water treatment process;
(2) Addition of a wholesale water customer, including addition of a wholesale customer to an individual City system, not anticipated in the original regional Master Plan.
(3) Increase in number of wells or capacity of existing wells;
(4) Increase in size of transmission line;
(5) Any contract for maintenance of the jointly operated facilities;
(6) Non-emergency repairs with a cost greater than 15% of the previous year’s operations costs;
(7) Any capital improvements intended to become part of the joint system.

3. OWNERSHIP OF THE JOINT SYSTEM: Wheeler shall own the well field (T2N, R9W, Section 5, Tax Lot 261), access easement thereto, wells, and a telemetry monitoring station. Manzanita shall own the disinfection plant, the telemetry system, the transmission line from the wells to the junction of Highway 101, and the two (2) master meters.

Manzanita shall be responsible for the design and construction of the joint system as part of its water system improvement project. This water system improvement project will also include the construction of a new water filtration plant which will be used to filter the Anderson Creek water source and the transmission line extending west from the intersection of Highway 101 and Highway 53 to Manzanita.

Wheeler shall be given a reasonable opportunity to review and comment on the plans and specifications, change orders, and proposed cost overruns in relation to the design and construction of the joint system. If the two parties cannot agree on the plans, specifications, change orders, or cost overruns, then this dispute shall be resolved in accordance with paragraph 14.

4. OTHER TRANSMISSION LINES: The transmission line extending west from the intersection of Highway 101 and Highway 53 to Manzanita, and the water filtration plant for Anderson Creek shall be owned and maintained by the City of Manzanita. The transmission line extending southeast from the intersection of Highway 101 and Highway 53 to Hemlock Street in Wheeler shall be owned by the City of Manzanita and maintained by the City of Wheeler. These transmission lines and filtration plant are not part of the joint system.

5. WATER RIGHTS: Water rights to the groundwater, certificates and permits shall be in the name of and owned by Wheeler.

6. WATER COST DISTRIBUTION: Manzanita will take responsibility for reading meters and billing wholesale customers along the jointly operated portion of the water system, from which funds received will be applied to directly offset joint system operation costs. Manzanita will bill on a monthly basis for water usage measured at Wheeler’s master meter. The rate per gallon Wheeler will be charged will be based on the two cities’ best...
estimate of the actual operating costs for the previous year. The allocation of actual costs of operating the joint system will be reconciled annually by using the following procedure:

The cost of providing water through the well system will be compiled by Manzanita in March of each year for the previous twelve (12) month period ending the last day of February. Such costs shall include labor and materials provided by each City to operate and maintain the wells, disinfection plant, and the transmission line to the intersection of Highway 101 and Highway 53, electricity, permits and mileage. Debt amortization will not be considered a cost for this purpose, except for repayment of State of Oregon loans #A92003 and #V94009. Operations costs will include filtration plant operations costs of supplying water requested by Wheeler in the event the well field is shut down.

The total costs shall be divided as follows. The costs associated with the readiness to serve or standby capability of the joint system will be divided based on each City’s percentage of equivalent dwelling units served by the total of the two communities. The costs in this category will be those which would be incurred even if no water was used (e.g., permits, line repair and labor). The costs associated with the actual production of water (e.g., electricity, chlorine, labor) will be divided based on the percentage of actual water usage by the respective Cities for the previous twelve (12) month period ending on the last day of February as determined by the master meters.

Based on this formula, if one City owes the other City money, the debt will be payable by May 31st of that year.

7. OPERATION, MAINTENANCE AND ADMINISTRATION OF JOINT SYSTEM: Routine joint system operation, maintenance and administration will be the responsibility of Manzanita and Wheeler through the use of existing staff and equipment. While both Cities will provide staff and equipment when needed, Manzanita shall have primary responsibility for repairs and billing. Manzanita will provide quarterly reports to Wheeler as to maintenance activities and the related costs. The telemetry system will be located in Manzanita and Wheeler will have a monitoring station directly linked to it.

8. TERMINATION OF AGREEMENT: After receipt of either grant assistance or loans from Rural Utility Service (RUS) to Manzanita and/or grant assistance or loans from RUS to Wheeler, this agreement cannot be terminated without the written consent of RUS.

9. ASSUMPTION OF BONDED DEBT: Any outstanding debt related to capital improvements not part of the joint system shall remain the responsibility of the respective party.

10. RESPONSIBILITY FOR OBLIGATIONS: All debts, liabilities and obligations related to the operation of the joint system shall be borne by the parties based on the proportionate share of operation costs in effect at the time the obligation is incurred.
11. **SALES TO OUTSIDE USERS**: Requests for permanent access to the joint system shall be required and approved by a respective majority of the Manzanita and Wheeler City Councils. For purposes of this section, outside users are those entities or individuals which are not presently full or part time customers of either Manzanita or Wheeler. Requests for permanent access to the joint system shall be reviewed on an individual basis and shall include a proposed rate analysis to reimburse the joint system for any capital expenditures and operation costs. In the event a majority of the Manzanita and Wheeler City Councils vote to deny any person in the service areas of Manzanita or Wheeler access to the joint system, before this denial shall be final RUS must concur in the denial.

12. **TERMS OF AGREEMENT**: This Agreement shall remain in effect for an initial period of forty (40) years from the date of the proposed loans from RUS to Manzanita and Wheeler. This agreement shall continue after the fortieth (40th) anniversary of such date on a year-to-year basis unless terminated by one of the parties. The agreement shall terminate upon either party giving the other six (6) months advance written notice of such termination. Prior to receipt of either grants or loans by both Cities from RUS, this Agreement may be terminated by a majority vote by each of the City Councils of Manzanita and Wheeler.

13. **AMENDMENT PROVISIONS**: Terms of this Agreement may be amended by mutual agreement of the parties with approval by RUS. Any such agreement shall be in writing and shall refer specifically to this agreement and shall be executed by the parties.

14. **DISPUTE RESOLUTION**: If a dispute arises as to the operation of the joint system, the two City Administrators shall first attempt to develop a solution. If both City Councils do not approve of the solution, the Mayors of both Cities shall call a special joint meeting of the two City Councils to discuss the dispute and attempt to reach a solution. In the event the City Councils cannot reach an agreement on the dispute, both City Councils agree to mediate the dispute. A mediator, agreeable to both City Councils, shall be selected. If mediation fails, the two Cities may pursue judicial resolution through the court system.

15. **EFFECTIVE DATE**: This Agreement shall be effective on the date signed by the respective Mayor and City Administrator of the City of Wheeler and the City of Manzanita following adoption of this agreement by the respective City Councils.

16. **WRITTEN NOTICE ADDRESS**: All written notices required under this Agreement shall be sent to:

**WHEELER:**
City Manager
City of Wheeler
P.O. Box 177
Wheeler, OR 97147
IN WITNESS WHEREOF, the parties have set their hands and affixed their seals as of the date and year herein below written.

Wheeler is acting in this matter pursuant to Ordinance No. 2000-04 and adopted by the Wheeler City Council on the 24th day of October, 2000.

Manzanita is acting in this matter pursuant to Ordinance No. 00-02 and adopted by the Manzanita City Council on the 4th day of October, 2000.

CITY OF MANZANITA

By: [Signature]
Mayor

By: [Signature]
City Manager

CITY OF WHEELER

By: [Signature]
Mayor

By: [Signature]
City Manager